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A TREATISE

ON

HYGIENE AND PUBLIC HEALTH

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IN THREE VOLUMES

VOL. III. — SANITARY LAW

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PREFACE

TO

THE THIRD VOLUME

In the Preface to the Second Volume, the reader who sought a fuller discussion of the law relating to the Public Health than was contained in the article on 'The Duties of the Medical Officer of Health,' was referred by the Editors to the Third Volume.

In presenting this Volume, the Editors desire to state that in selecting the authors of the articles on 'The Public Health Law of England, Ireland, and Scotland,' they deemed it preferable to place the work in the hands of gentlemen of recognised legal ability, each of whom is officially engaged in the administration of the law of that part of the United Kingdom to which his article relates.

The adoption of this course necessitates the omission of the names of the authors, but it is thought that this is of less importance than the certainty that the reader will have for his use a work based on actual experience of an exceptional character.

In the arrangement of the Volume it has been considered desirable to give a full account of the English law, and in the sections relating to Ireland and Scotland to indicate more particularly the differences which exist between the law of those countries and that of England.

October, 1894.

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NOTE.

While this volume has been passing through the press, the following Acts of Parliament have been added to the Statute Book:—

The London Building Act, 1894, has consolidated and amended the greater part of the Metropolitan Building Acts, to which a brief reference is made on pages 289 to 292.

The Merchant Shipping Act, 1894, has repealed and re-enacted Section 48 of the Merchant Shipping (Fishing Boats) Act, 1883, mentioned on page 80, and has also enabled the Corporations of Municipal Boroughs, being ports in the United Kingdom, to appropriate, with the consent of the Local Government Board, lands belonging to them as sites for sailors' homes. See Sections 214 and 259 of the Act.

The Housing of the Working Classes Act, 1894, removes a doubt which had arisen as to the borrowing powers of local authorities under Part II. of the Act of 1890.

The Diseases (Animals) Act, 1894, has in no way affected the provisions of the Acts of 1878 and 1886 relating to sanitary authorities, except that its effect has been to prevent sanitary authorities in Ireland being recouped from the General Cattle Diseases Fund any expenses incurred by them under the Act of 1886.

The Local Government (Scotland) Act, 1894. Reference is made to the Bill for this Act on pages 425 and 446. The Act has made an important change in the central public health authority in Scotland, which will henceforth be called the Local Government Board for Scotland, and will be constituted as described on page 425 (see Section 4). The Act establishes parish councils as mentioned on page 446. Section 44 contains a further provision of great value: it enables a district committee to constitute special districts in landward areas for (1) lighting, (2) scavenging and the removal of dust, ashes, and other refuse, and (3) the provision of public baths or bathing places, wash-houses and drying grounds (see pages 429 and 446). Powers of management are conferred by the incorporation of the appropriate clauses of the Burgh Police (Scotland) Act, 1892. The cost of these services will fall upon the special district, and is limited to a rate of ninepence in the pound.

THE LAW

RELATING TO THE

PUBLIC HEALTH IN ENGLAND AND WALES

PREFATORY MEMORANDUM

In the following pages an attempt has been made to present in an intelligible form so much of the law relating to the public health in England and Wales as is likely to be serviceable to members of the medical profession who may be concerned in its administration. In the performance of this task it has been necessary to disentangle and collate an immense number of more or less intricate provisions, scattered up and down the Statute Book and in the orders and regulations of various Government departments; to explain their object and effect, the difficulties which have arisen in carrying some of them into execution, and the manner in which these difficulties may best be met; and to refer to some few decisions of the Courts which have been given upon questions of importance from a sanitary point of view. The growing interest which has been taken of late years in matters connected with the public health, and the constantly increasing demand for improved sanitary laws to meet practical requirements which have arisen from time to time, have resulted in the passing of an amount of piecemeal legislation which is portentous in its magnitude, much of which is unnecessarily involved and obscure, and most of which stands in urgent need of consolidation. Until Mr. Ritchie's Housing of the Working Classes Act, 1890, and the Public Health (London) Act, 1891, no real attempt had been made in this direction since the passing of the Public Health Act, 1875, which was itself very far from containing a complete consolidation of the then existing laws relating to the public health, seeing that it left altogether untouched the whole of the sanitary law in the metropolis and a very considerable proportion of that law in force in the remainder of the country. Even at the end of 1875, therefore, there remained a great mass of unconsolidated sanitary legislation. Since then there has hardly been a year in which accumulations, more or less considerable, have not been added to it. The Public Health Act itself has been amended again and again; and voluminous statutes have been passed relating to the regulation of canal boats and other movable dwellings, offensive trades, the sanitation of factories and workshops, the notification and prevention of infectious disease, the prevention of the pollution of rivers, adulteration, and a variety of other matters having more or less intimate connection with the public health. It is impossible to deny that some of these Acts have been productive of very beneficial results to the community, or to regret that they have become law. But it is equally impossible not to feel that their practical utility would be greatly enhanced if they were thrown into such a form that they might be readily understood by the general public, in whose interests they have been passed. There is no branch of the law in England with which it is more desirable that the public

should be intimately acquainted, or with respect to which more general ignorance prevails. Nor is this ignorance surprising. Until the law has been simplified and consolidated, it will be useless to expect that any but members of the legal profession will willingly have recourse to the Acts themselves, not only because of their number, which is of itself a strong deterrent, but also by reason of the extent to which many of them have been amended by later Acts, or are themselves amendments of earlier statutes. It is difficult for a lay reader to master the contents of a single well-drawn Act of Parliament, which contains within its four corners the whole of the statute law relating to the subject-matter with which it deals. It is obviously quite impossible for him to piece together for himself with any satisfactory result many of the Acts which are referred to in the following pages, large portions of which will probably confuse him by their obscurity; while what appear at first sight to be the simpler provisions have not unfrequently been so altered by succeeding enactments that they have almost entirely lost their original form and meaning. It becomes requisite, therefore, in any treatise explaining their effect, that the writer should do the best that he can in the way of consolidating them for the benefit of his readers; and this consolidation must necessarily assume a form adapted for the class of readers for whom the treatise is written.

In the present instance, the consolidation being primarily for the use of the medical profession, it has been thought desirable to leave altogether out of account many of the powers and duties of sanitary authorities under the Public Health Act and other statutes—e.g. those in relation to the maintenance and improvement of highways, tramways, gasworks, public lighting, fire brigades, libraries, &c., which have no immediate bearing on the public health. And such matters as the constitution and procedure of sanitary authorities, their contracts, accounts, and powers of rating, and the duties of their officers, other than medical officers of health and inspectors of nuisances, have been very lightly touched upon, except where it has been necessary to go into details by way of explaining provisions which have a direct bearing on the public health. On the other hand, it has been necessary to describe somewhat fully the functions of certain local authorities, which are not, technically speaking, sanitary authorities—e.g. of burial boards in relation to the provision of cemeteries, of boards of guardians in connection with vaccination, of the Metropolitan Asylums Board, and of Commissioners of Baths and Washhouses. The laws relating to the public health in London differ in some respects so widely from those in force in the rest of the country, that it seemed at first a question whether any account of them should be included in the present work. To have omitted any reference to them would have greatly lightened the labour of compilation; but on consideration it seemed impossible not to give a general summary of their provisions in a description of the law relating to the public health of England. Of late years there has been a decided tendency on the part of Parliament to bring them into harmony with the corresponding provisions which apply to the provinces; and the time may not be far distant when they may be still further assimilated to the general law. There are many enactments in force in the provinces which might with great advantage be made applicable to London, and some of the provisions of the London Acts—e.g. of the Public Health (London) Act, 1891—would probably be found of service in other large towns. There was a time when London took the lead of the rest of the country in sanitary legislation. Forty years ago the Local Act of the Commissioners of Sewers of the City of London formed an excellent precedent for Local Improvement Acts in the provinces; and as lately as 1887 the Metropolitan Open Spaces

Acts were applied to the whole of England and Wales. But, unfortunately for London, the Metropolitan Board of Works, during its tenure of office, was very far from distinguishing itself by any conspicuous ability in the framing of measures of sanitary reform ; nor were its deficiencies supplied by the Metropolitan Vestries and District Boards. During a period marked by unexampled progress in the rest of the country, London almost stood still, so far as ordinary sanitary legislation was concerned. Nor can it even be alleged that its sanitary authorities satisfactorily exercised such functions as they possessed, in relation, for example, to the prevention of infectious diseases. So great was their apathy in this respect, that it became necessary that a poor law authority, constituted for the purpose of providing asylums for imbecile paupers and training ships for pauper children, should step in and undertake the work of protecting the metropolis from the ravages of infectious disease, not so much by reason of its own inherent fitness for the discharge of such a duty as in consequence of the absolute hopelessness of rousing the sanitary authorities to make any adequate effort to exercise the powers which had been entrusted to them in common with the sanitary authorities in the provinces for the purpose of providing the necessary means of isolation. The constitution of the London County Council marked, however, the commencement of a new era in the sanitary history of the metropolis ; and it may not unreasonably be hoped that before many years have passed the law relating to the public health in London, and its administration, may rise to the level which has been attained in the leading provincial boroughs. Be this as it may, the sanitary experiences of the metropolis must always be a matter of concern to medical officers of health in the rest of the country, both as showing the ends to be aimed at and the errors to be avoided ; and for this reason, if for no other, there is a decided advantage in including in the present work some account of the Public Health (London) Act, 1891, the Metropolis Management Acts, and other statutes relating to the public health in London.

With the statutory enactments which have been consolidated on the present occasion, it has been necessary to include much of the existing sanitary law which is contained in orders and regulations issued from time to time by Government departments in pursuance of powers in that behalf conferred by Parliament—e.g. the orders of the Local Government Board prescribing the duties, appointments, and tenure of office of medical officers of health and inspectors of nuisances, portions of whose salaries are repayable by County Councils ; the regulations made by the same Board, under Sections 130 and 134 of the Public Health Act, 1875, for preventing the spread of cholera; and such of the orders of the Privy Council, the Poor Law Board, and the Local Government Board, issued under the Vaccination Acts and the Contagious Diseases (Animals) Acts, as are still in force. It has also been necessary to devote considerable space and attention to the bye-laws which may be made by sanitary authorities subject to the confirmation of the Local Government Board. These have of late years for the most part followed more or less closely the precedents contained in the various series of model bye-laws framed by the Board for the guidance of sanitary authorities. Some account has therefore been given of each series which has embodied provisions of importance from a sanitary point of view; and where it has appeared desirable to do so, in connection with these or other questions which have arisen incidentally in the discussion of the existing law, the views of the Local Government Board or their medical advisers, as expressed in circulars addressed to the local authorities, have been stated more or less fully according to the requirements of the case.

In many of the larger towns of England, Local Acts are in force containing sanitary provisions differing from the corresponding enactments of the general law. Some of these have been of great value in their time, as affording precedents on which the general law has been modelled. Others have been practically superseded by Public Acts of Parliament passed in later years. In cases where these Local Acts provide for purposes the same as or similar to the purposes of the Public Health Act, the latter Act [1] gives to the sanitary authority and to private individuals the option of instituting proceedings under it or under the Local Act, as they may prefer; at the same time providing that the sanitary authority shall not by reason of any Local Act be exempted from the performance of any duty or obligation to which they may be subject under the Public Health Act. These Local Acts are therefore at the present time chiefly of importance, so far as they confer on sanitary authorities powers in excess of those given by the general law. It would be manifestly impossible in such a work as this to attempt to give any description of the majority of these powers. In any district in which such Acts are in force, it will be necessary that the medical officer of health should ascertain for himself how far their provisions are preferable to those contained in Public Acts dealing with the same matters.

On the whole, notwithstanding their many defects, it is impossible altogether to repress admiration of the sanitary laws of England, which, imperfect as they are, are enormously in advance of any legislation for the preservation of the public health which has been framed in any preceding age. Their weakness is to a great extent due to the mushroom rapidity with which they have sprung into existence in a community which has year by year more fully recognised the importance of sanitary work. Their strength lies in the fact that they have for the most part been designed to meet practical needs, and that, although there are to be found in them instances of provisions which, when tested by experience, have failed in their object, they are for the most part readily workable by sanitary authorities who care to put them in force. For this reason they are not likely to be soon superseded. Nor are there many directions in which they can be expected to display any very extensive further developments. They have attempted to cope with nearly every conceivable sanitary difficulty. If their administration were perfect, it is scarcely an exaggeration to say that there would be no insanitary dwelling, no polluted water-supply, no accumulation of filth, and no unnecessary spread of infectious disease in any part of the country. It is in the direction of improved administration, and the consolidation and simplification of existing statutes, rather than in any further increase in their volume, that reform is now most needed. It is satisfactory to note that this fact has been recognised by Parliament, which has not only consolidated the laws relating to the housing of the poor, but has also commenced and made very considerable progress in the consolidation of the laws relating to the public health in force in London.

[1] See Section 340 of the Public Health Act, 1875.

PART I

AREAS AND AUTHORITIES FOR SANITARY PURPOSES

I. LOCAL AREAS FOR SANITARY PURPOSES

Administrative counties and county boroughs.

The whole of England and Wale soutside the County of London is divided into administrative counties and county boroughs. The administrative counties will, under the Local Government Act, 1894, after the appointed day, i.e. the second Thursday after November 8, 1894, or such later date or dates as the Local Government Board may fix, be divided into county districts, some of which will be urban, and the others rural districts. These districts, subject to changes made by or in pursuance of the Local Government Act, 1894, will consist of sanitary districts constituted for the purposes of the Public Health Act, 1875. Under that Act the whole of England and Wales, with the exception of the metropolis, was divided into sanitary districts, under the jurisdiction of sanitary authorities. These districts were of two kinds : urban sanitary districts and rural sanitary districts. Urban sanitary districts consisted of (1) Municipal Boroughs, (2) Local Government districts, and (3) Improvement Act districts. Prior to the passing of the Local Government Act, 1888, there were several municipal boroughs which did not of themselves constitute entire urban sanitary districts; but by Section 52 of that Act the Local Government Board were required to deal with these cases in such a manner as to make the borough and the urban sanitary district conterminous; and at the present time the only municipal borough which does not fulfil this requirement is Folkestone, a portion of which forms part of the Local Government district of Sandgate.

County districts.

Sanitary districts.

Rural sanitary districts consisted of such portions of poor law unions as were not comprised in urban sanitary districts.

Effect of Local Government Act, 1894, on sanitary districts.

The Local Government Act, 1894, as from the appointed day, will to some extent modify these arrangements. County boroughs will continue to be urban sanitary districts; but all other urban sanitary districts will be called urban districts, and rural sanitary districts will be called rural districts. Where a rural sanitary district is on the appointed day situate in more than one administrative county, such portion thereof as is situate in each such county will, save as is otherwise provided by or in pursuance of that or any other Act, be as from the appointed day a separate rural district.

Rural parishes.

Every rural district will consist of one or more parishes. In the great majority of cases the district will consist of several parishes. Prior to the appointed day many parishes will be situate partly in urban and partly in rural districts; but as from that day the part of any such parish in each district will become a separate parish, subject to any alterations made by or in pursuance of the Act.

II. LOCAL AUTHORITIES FOR SANITARY PURPOSES

County councils.

In every administrative county there is a county council, who may appoint one or more medical officers of health for the county, and who have various other powers and duties in connection with the supervision of the sanitary administration of the county, and the enforcement of the performance of certain duties of some of the local authorities in the county. But by far the greater part of the sanitary administration devolves in each district on the urban and rural sanitary authorities, who, after the appointed day, will be called urban and rural district councils.

Urban and rural district councils.

Parish councils.

After the appointed day some few sanitary powers will be possessed by parish councils; but these will in no way derogate from any obligation of a district council with reference to the supply of water or the execution of sanitary works. Where a rural sanitary district consists of one parish only, then, until the district is united to some one or more other districts, and unless the county council otherwise direct, no parish council will be elected; but the district council will, in addition to their other powers, have the powers of and be deemed to be the parish council.

Different kinds of urban sanitary authorities (Public Health Act, 1875, Sec. 6).

Under the Public Health Act, 1875, there were three kinds of urban sanitary authorities. In a municipal borough the urban sanitary authority consisted of the mayor, aldermen and burgesses, acting by the council. In a local government district, the local board, and in an improvement act district the improvement commissioners were the urban sanitary authority.

Effect of Local Government Act, 1894, on urban sanitary authorities.

After the appointed day in a county borough, the mayor, aldermen and burgesses, acting by the council, will continue to be the urban sanitary authority. In other boroughs they will become an urban district council. A similar fate will befall local boards and improvement commissioners. As, however, all these authorities are popularly known as urban sanitary authorities, and are so described in the numerous statutes which have defined their powers and duties, it will be convenient for the purposes of the present work, which deals solely with their sanitary functions, to continue to speak of them generally as urban sanitary authorities, and of their districts as urban sanitary districts.

Power of urban sanitary authority to appoint committees (Sec. 200).

The Public Health Act, 1875, enabled every urban sanitary authority from time to time to appoint out of their own number so many persons as they might think fit for any purposes of the Public Health Act, 1875, which in the opinion of such authority would be better regulated and managed by means of a committee. But a committee so appointed could in no case be authorised to borrow any money, to make any rate, or to enter into any contract; and it was subject to any regulations or restrictions which might be imposed by the authority that formed it.

Committees in urban districts other than boroughs (Local Government Act, 1894, Sec. 56 (1)).

After the appointed day the above provisions will be repealed, except so far as they relate to boroughs, and the district council of every urban district other than a borough will be enabled to appoint committees, consisting either wholly or partly of the members of the council, for the exercise of any powers which, in the opinion of the council, can be properly exercised by committees; but no such committee will hold office beyond the next annual meeting of the council, and the

acts of every such committee must be submitted to the council for their approval. Where a committee is appointed by any district council for any of the purposes of the Public Health Acts, the council may authorise the committee to institute any proceeding or do any act which the council might have instituted or done for that purpose other than the raising of any loan or the making of any rate or contract.

Constitution of rural sanitary authorities (Public Health Act, 1875, Sec. 9).

By the Public Health Act, 1875, the guardians of the Poor Law Union in a rural sanitary district were made the rural sanitary authority, and the rural sanitary authority and the guardians were declared to be the same body. In other words, they were the same corporate body. But for practical purposes they were different bodies, when any part of the union was comprised in one or more urban sanitary districts. For in such a case no elective guardian of any parish belonging to the union, and forming or being wholly included within any urban sanitary district, might act or vote as a member of the rural sanitary authority. Nor might any *ex officio*[1] guardian so vote if resident in any urban sanitary district, unless he were the owner or occupier of property situate in the rural sanitary district, of a value sufficient to qualify him as an elective guardian for the union.

What guardians may act and vote as members of rural sanitary authority.

Power of Local Government Board to nominate members of rural sanitary authority when the number of members is less than five.

Some unions consisted entirely of urban sanitary districts. In others, the number of parishes not included in urban sanitary districts was so small that the number of elective guardians of these parishes was less than five. In these cases the Local Government Board were empowered by the Public Health Act, 1875, by order from time to time to nominate such number of persons as might be necessary to make up that number, from owners or occupiers of property situated in the rural sanitary district, of a value sufficient to qualify them as elective guardians of the union. The persons so nominated were entitled to act and vote as members of the rural sanitary authority, but not further or otherwise.

Constitution of rural district councils (Local Government Act, 1894, Sec. 24).

These provisions will continue to apply to the district council of any rural district to which they applied at the passing of the Local Government Act, 1894, i.e. on March 5, 1894. Under that Act the district council of every rural district will consist of a chairman and councillors, and the councillors will be elected by the parishes or other areas for the election of guardians in the district, the number of councillors for each parish being the same as the number of guardians for the parish or other area. As already stated,[2] where a rural sanitary district is on the appointed day situate in more than one administrative county, such portion of it as is situate in each county will, save as otherwise provided by or in pursuance of that or any other Act, be as from the appointed day a rural district. Where the number of councillors of any such district will be less than five, the above provisions with respect to the nomination of persons to make up the members of a rural sanitary authority to five will also apply, unless the Local Government Board by order direct that the affairs of the district shall be temporarily administered by the district council of an adjoining district in another county with which it was united before the appointed day; and, if they so direct, the councillors of the district will be entitled,

Rural sanitary districts in more than one county.

[1] These are the justices of the peace resident in the union and acting for the county.

[2] See p. 8.

as regards those affairs, to sit and act as members of that district council.

Powers and duties of rural district councils (Secs. 25).

In every rural sanitary district the rural district council will, after the appointed day, have all the powers, duties, and liabilities of a rural sanitary authority. They will also have such powers, duties, and liabilities of urban sanitary authorities under the Public Health Acts or any other Act, and such provisions of those Acts relating to urban districts will apply to their districts, as the Local Government Board by general order direct.

Power of rural district councils to appoint committees (Sec. 56).

The powers of a rural district council as regards the appointment of committees will be the same [1] as those of the district councils of urban districts other than boroughs.

Power of rural sanitary authority to form parochial committees (Sec. 202).

Rural district councils will also, as the successors of rural sanitary authorities, have the power, at any meeting specially called for the purpose, to form for any contributory [2] place within their district a parochial committee, consisting wholly of members of the authority or of the committee to which they have delegated their powers and duties for the year, or partly of such members and partly of such other persons liable to contribute to the rate levied for the relief of the poor in such contributory place, and qualified in such other manner (if any) as the authority forming such parochial committee may determine. These persons, if there is a parish council, must be selected from the members of that council. The power of appointing parochial committees has been extensively exercised in rural sanitary districts, and is of great utility, inasmuch as it enables a rural sanitary authority whose meetings are held at a distance from the parish to set up in the parish a resident subordinate local authority, to act as its agents in the exercise of the powers delegated to them.

Limitation of powers of parochial committees.

The parochial committee remains completely under the control of the rural sanitary authority which has formed it, and which may at any time dissolve it, or add to or diminish its numbers, or otherwise alter its constitution. It is subject to any regulations or restrictions which may be imposed by that authority; it is to be deemed its agent, and its formation will not relieve the authority from any obligation imposed by Act of Parliament or otherwise. No jurisdiction may be given to it beyond the limits of the contributory place for which it is formed, and no powers may be delegated to it, except powers which the rural sanitary authority could exercise in that contributory place. Consequently the appointment of officers cannot be delegated to it.

Delegation of powers of parochial committee to parish council.

By Section 15 of the Local Government Act, 1894, a rural district council may delegate to a parish council any power which may be delegated to a parochial committee under the Public Health Acts, and thereupon those Acts will apply as if the parish council were a parochial committee.

Duties which in the opinion of the Local Government Board may properly be assigned to parochial committees.

The Local Government Board have expressed their opinion that the following duties may properly be assigned to parochial committees:—(1) To inspect their district from time to time, with a view of ascertaining whether any works [3] of construction are required, or whether any nuisances [4] exist therein which should be abated; (2) to superintend the execution and maintenance of any works which may

[1] As to these powers, see p. 8.
[2] As to what constitutes a contributory place, see p. 28.
[3] E.g. sewers, works of water supply, or cemeteries.
[4] With respect to the powers of the rural sanitary authority as to the abatement of nuisances, see below, pp. 61 to 68.

be required, or which may have been provided for the special use of the district, and to give directions for any repairs or other matters requiring immediate attention in relation to such works which fall within the reasonable scope of the authority which they possess as agents of the rural sanitary authority; (3) to consider complaints of any nuisances and the action of the medical [1] officer of health or inspector of nuisances thereon, and to inform those officers of any nuisances requiring their attention, and to give such directions for abatement of the same in cases of urgency as the circumstances may seem to require; (4) to examine and certify all accounts relating to expenditure within their district; (5) to report to the rural sanitary authority from time to time the several matters requiring their attention, and the manner in which their officers and servants have discharged their duties.

III. ACQUISITION OF URBAN POWERS BY RURAL AUTHORITIES

Urban and rural powers.

The powers conferred by the Legislature on urban and rural sanitary authorities are in many respects identical. Many powers, however, which have been conferred on urban sanitary authorities have not been given to rural sanitary authorities, and in some exceptional cases powers [2] have been given to rural sanitary authorities which are not possessed by urban sanitary authorities. As has been already [3] stated, the Local Government Act, 1894, has enabled the Local Government Board by general order to confer on rural district councils any powers, duties, and liabilities of an urban sanitary authority. This power is in addition to and not in derogation of the power given to that Board by Section 276 of the Public Health Act, 1875, the provisions and objects of which have next to be explained.

How powers of an urban sanitary authority may be obtained by a rural sanitary authority (Public Health Act, 1875, Sec. 276).

It not unfrequently happens that a rural sanitary district comprises one or more parishes or contributory [4] places, which, although they have not a sufficient population to justify their being formed into urban sanitary districts, are of a sufficiently urban character to render it desirable that the sanitary authorities should be enabled to exercise in them special urban powers. To meet these cases, Section 276 of the Public Health Act provides that the Local Government Board may, on the application of the authority of any rural sanitary district, or of persons rated to the relief of the poor, the assessment of whose hereditaments amounts at the least to one-tenth of the net rateable value of the district, or of any contributory place therein, by order to be published in the 'London Gazette,' or in such other manner as the Local Government Board may direct, declare any provision [5] of that Act in force in urban sanitary districts to be in force in such rural sanitary district or contributory place, and may invest the rural sanitary authority with

[1] As regards the duties of the medical officer of health and inspector o nuisances with respect to nuisances, see pp. 205 and 211.

[2] See, e.g., the powers given to rural sanitary authorities by the Public Health (Water) Act, 1878 (pp. 43 to 46), which powers can in certain cases be given to urban sanitary authorities, p. 43.

[3] See p. 10.

[4] As to what constitutes a contributory place, see p. 28.

[5] It is to be noted that a provision in force in an urban sanitary district may be applied under the section to a rural sanitary district or any contributory place therein, although it does not in terms confer any power on the sanitary authority.

all or any of the powers, rights, duties, capacities, liabilities, and obligations of an urban sanitary authority under that Act. Such investment may be made either unconditionally or subject to any conditions to be specified by the Local Government Board as to the time, portions of the district, or manner during, at, and in which such powers, rights, duties, capacities, and liabilities are to be exercised or attached. But an order of the Local Government Board made on the application of one-tenth of the persons rated to the relief of the poor in any contributory place may not invest the rural sanitary authority with any new powers beyond the limit of such contributory place.

In like manner, and subject to similar restrictions, the Private Street Works Act, 1892, and any provisions of the Public Health Acts Amendment Act, 1890, may be put in force in the whole or any part of any rural sanitary district.

The above powers of the Local Government Board, under Section 276 of the Public Health Act, 1875, or any enactment applying that section, may, in pursuance of Section 25 (7) of the Local Government Act, 1894, be exercised on the application of the county council, or with respect to any parish or part of a parish on the application of the parish council.

Provisions most frequently put in force in rural sanitary districts.

The provisions of the Public Health Act which have been most frequently put in force in parts of rural sanitary districts are those contained in Sections 42, 44, 157, and 158, which relate to the cleansing and watering of streets and the making of bye-laws for the prevention of nuisances and with respect to new buildings. Other sections which are occasionally put in force are Sections [1] 169 (2 and 3) and 170, which provide for the sanitary regulation of slaughter-houses; so much of Section 161 as enables contracts to be made for public lighting, and Sections [2] 112 and 114, relating to offensive trades. When any application is made to the Local Government Board for the acquisition of any of these powers, it should be accompanied by a statement of the grounds which are considered to render it desirable that these exceptional powers should be given.

IV. ALTERATIONS OF URBAN AND RURAL DISTRICTS

Circumstances which render alterations in sanitary areas necessary.

The growth of population renders alterations from time to time necessary in the areas of urban and rural sanitary districts. For example, a rural village expands into a town; or a small town becomes so large that it is entitled to be formed into an urban sanitary district. Or the boundaries of an urban sanitary district require to be extended in consequence of the development of the town, which was originally comprised within the boundaries of the district. In each of these cases, the rural sanitary district is curtailed, when the necessary alteration of areas has been affected. In other cases it becomes desirable to dissolve[3] an urban sanitary district and add it to some adjoin-

[1] As to these sections, see p. 126.

[2] As to these sections, see pp. 111 to 113.

[3] Prior to August 10, 1872, Local Government districts might be formed by resolutions of the owners and ratepayers, and in many cases they were so formed, not on sanitary grounds, but with the view of enabling the inhabitants to escape from contributing to the expenses of highways in adjoining parishes. Some of these districts have since been dissolved, and merged in the adjoining urban or rural sanitary districts. But many of them still remain, and some might convenientl be dealt with by county councils under the powers vested in these bodies by the Local Government Act, 1888.

ing urban or rural sanitary district. These alterations are seldom brought about without some friction and opposition on the part of landowners and others interested in the change. The rates are usually lower in a rural than in an urban sanitary district; sanitary regulations are sometimes less stringently enforced; and, not unfrequently, the alteration is further impeded by local jealousies. For these and other reasons, alterations in the areas of urban and rural sanitary districts are not allowed to be made by the sanitary authorities themselves. Prior to the passing of the Local Government Act, 1888, a municipal borough could only be extended by means of a local Act, and the boundaries of any other urban sanitary district could only be altered by a provisional order of the Local Government Board, confirmed by Parliament. In those days, a Local Government district could be constituted by the Local Government Board in pursuance of a resolution of the owners and ratepayers, or dissolved by that Board by means of a provisional order confirmed by Parliament. In these respects the law was altered by the Local Government Act, 1888, which enabled the Local Government Board by provisional order to alter the boundaries of boroughs, and which also conferred on county councils very considerable powers as regards the conversion of other urban into rural and rural into urban sanitary districts, and the alteration of the areas of such districts. In these cases the county councils were required to submit the orders which they might make to the Local Government Board, and to give such notice as might be prescribed by that Board of the provisions of the orders; and if within[1] three months after such notice had been given, the sanitary authority of any district affected, or one-tenth of the total number of county electors registered in the district, petitioned the Board to disallow the order, the Board were required to cause a local inquiry to be held, and to determine whether or not the order should be confirmed. In the absence or on the withdrawal of any such petition, the Board were required to confirm the order, but in doing so they might make such modifications therein as they considered necessary for carrying the objects of the order into effect. These orders, when confirmed, had to be laid before both Houses of Parliament, but this requirement was only imposed with the object of enabling Parliament to see what had been done,[2] no Parliamentary ratification of the order being necessary in these cases.

Law relating to these alterations prior to the passing of the Local Government Act.

How altered by the Local Government Act, 1888.

The Local Government Act, 1894, has required every county council to take into consideration every one of the following cases within their county, viz.:—

Provisions of the Local Government Act, 1894, with reference to the alteration of rural sanitary districts and parishes (Local Government Act, 1894, Sec. 36).

(*a*) Every parish and rural sanitary district which at the passing of the Act was situate partly within and partly without an administrative county; and

(*b*) Every parish which at the passing of the Act was situate partly within and partly without a sanitary district; and

(*c*) Every rural parish containing a population of less than 200; and

(*d*) Every rural sanitary district which at the passing of the Act had less than five elective guardians capable of acting and

[1] This period has been shortened to six weeks by Section 41 of the Local Government Act, 1894.

[2] At the expiration of six months the order is now to be presumed to have been duly made, and no objection to its legality may be entertained in any legal proceeding. See Section 43 of the Local Government Act, 1894.

voting as members of the rural sanitary authority of the district; and

(*e*) Every rural parish which was co-extensive with a rural sanitary district.

It has further required the council to cause the necessary inquiries to be made and notices given, and to make such orders as they deem most suitable for carrying the Act into effect, so that

(i.) The whole of each parish, and, unless the county council for special reasons otherwise direct, the whole of each rural district shall be within the same administrative county;

(ii.) The whole of each parish shall, unless the county council for special reasons otherwise direct, be within the same county district; and

(iii.) Every rural district which will have less than five elected councillors shall, unless for special reasons the county council otherwise direct, be united to some neighbouring district or districts.

If these duties are duly performed, the boundaries of many sanitary areas will be considerably altered. At the expiration of two years from the passing of the Act, i.e. from March 5, 1894, or such further period as the Local Government Board may allow, either generally or with reference to any particular matter, the powers of the county council, to effect these changes, will be transferred to the Local Government Board. When any rural sanitary district or parish is situate in more than one county, the alteration of area is to be made by a joint committee of the councils of the several counties comprising the district or parish.

Charter necessary for new borough.

The Local Government Board prior to the passing of the Local Government Act, 1888, and the county councils since, have had no power to constitute a municipal borough. This can only be effected by the grant of a charter by the Queen, on the advice of the Privy Council. Notice, however, of any application for such a charter is required, by Section 56 of the Local Government Act, 1888, to be sent to the county council and also to the Local Government Board, and any representations made by the council or by the Board must be considered by the Privy Council, together with the application for the charter.

PART II

POWERS AND DUTIES OF URBAN AND RURAL SANITARY[1] AUTHORITIES

I. SEWERAGE

Duties of sanitary authorities in relation to sewerage.

THE first duties which are imposed alike on urban and rural sanitary authorities by the Public Health Act, 1875, are those relating to sewerage and drainage. For the proper understanding of these duties, it is necessary to bear in mind the clear distinction drawn by the Act between 'drains' and 'sewers.' 'Drain' is defined by Section 4 of the Act as meaning any drain of, and used for, the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating therefrom with a cesspool or other like receptacle for drainage, or with a sewer into which the drainage of two or more buildings or premises occupied by different persons is conveyed; while 'sewer' includes sewers and drains of every description, except drains falling within the definition of 'drains,' and except drains vested in or under the control of any authority having the management of roads, and not being a sanitary authority. In every urban sanitary district, and in those rural sanitary districts in which the powers of the Highway Board have been transferred to the rural sanitary authority under the Highways and Locomotives (Amendment) Act, 1878, the management of the highways belongs to the sanitary authority.

Definition of 'drain' and 'sewer' (Public Health Act, 1875, Sec. 4).

Maintenance and making of sewers (Sec. 15).

Cleansing and ventilation of sewers (Sec 19).

It is the duty of every sanitary authority to keep in repair all sewers belonging to them, and to cause to be made[2] such sewers as may be necessary for effectually draining their district for the purposes of the Public Health Act. It is further their duty to cause the sewers belonging to them to be constructed, covered, ventilated, and kept so as not to be a nuisance[3] or injurious to health, and to be properly cleansed and emptied. It not unfrequently happens that these are among the most onerous duties which a sanitary authority is called upon to perform, and that they entail a serious expenditure in their fulfilment. Lest these considerations should in any case prevent sanitary authorities from providing their districts with such systems of sewerage as are essential to the health of the inhabitants, special legislative provision has been made for enforcing the performance of this work by defaulting authorities. The proceedings necessary for this purpose may be taken under Section 299 of the Act, which provides that where complaint is made to the Local Government Board that a

Enforcement of the performance of these duties by sanitary authorities on complaint by individuals (Sec. 299).

[1] The reasons for the retention of the expression 'Sanitary Authorities' are given at page 8.

[2] Section 16 (3) of the Local Government Act, 1894, provides that where a rural district council have determined to adopt plans for the sewerage or water supply of any contributory place within their district, they must give notice thereof to the parish council of any parish for which the works are to be provided, before any contract is entered into by them for the execution of the works.

[3] As to the meaning of these words, see p. 61.

sanitary authority have made default in providing their district with sufficient sewers, or in the maintenance of existing sewers,[1] . . . the Local Government Board, if satisfied, after due inquiry, that the authority has been guilty of the alleged default, must make an order limiting a time for the performance of their duties in the matter of such complaint. If such duty is not performed by the time limited in the order, such order may be enforced by writ of mandamus, or the Local Government Board may appoint some person to perform such duty; and if they adopt this course, they are to direct by order [2] that the expenses of performing the same, together with a reasonable remuneration to the person appointed for superintending such performance, and amounting to a sum to be specified in the order, shall be paid by the authority in default.

It will be observed that this section enables a minority, however small, of the inhabitants of any district to raise in an effective manner the question whether the sanitary authority has performed its duties in the matter of sewerage, and that it requires the Local Government Board, if a sufficient case is made out for their interference, to issue an order, enforceable by mandamus, limiting a time for the carrying out by the sanitary authority of the necessary works. That this power of appeal to the central authority is not unfrequently resorted to by those locally interested is shown by the annual reports of the Local Government Board, which for many years past have contained information as to the principal cases in which complaints have been made under the section, and the manner in which they have been dealt with. It would appear from these reports that, as a general rule, where the complaints have been proved to be well founded, the sanitary authorities have carried out the works which have been shown to be required, and have thus rendered it unnecessary for the Local Government Board to institute the legal proceedings contemplated by the section. There have, however, been certain cases in which these proceedings have had to be taken, with the result that the sanitary authority has done the work under compulsion in pursuance of a mandamus. Notable instances in which this has been done are those of the Lincoln Corporation and the Cheshunt Local Board, each of which has carried out an extensive system of sewerage in consequence of the proceedings taken by the Local Government Board for enforcing an order made by them under this section.

The section gives the Local Government Board the option of obtaining the enforcement of their order by a mandamus, or of appointing some person to perform the work at the expense of the defaulting authority. In former years it was the practice of the predecessors of the Local Government Board to appoint engineers to execute works for defaulting authorities; but this practice has of late years fallen into desuetude, and the present practice is to apply to the court for a mandamus for the enforcement of the order.

Powers of county councils on complaints by parish councils of defaulting rural sanitary authorities.

The above provisions apply to every sanitary authority, who make default in providing their district with sufficient sewers or in the maintenance of existing sewers. Further powers have been given by the Local Government Act, 1894, enabling the county council, instead of the Local Government Board, to intervene where the defaulting

[1] With reference to so much of this section as relates to the default of a sanitary authority to provide a proper water supply for its district, see p. 43.

[2] This order is enforceable in the Queen's Bench Division of the High Court of Justice.

authority is a rural district council. In such cases, the parish council, or where there is no parish council, the parish meeting, may complain to the county council, who, if satisfied, after due inquiry, that the district council are in default, may resolve that the powers and duties of the district council shall be transferred to them, and may themselves execute the necessary works; or if they prefer to do so, may take the same proceedings and exercise the same powers as the Local Government Board, under Sections 299 of the Public Health Act, 1875.

Local Government Act, 1894, Secs. 16 and 19.

It will be seen from what has already been stated that the sewers to be made by the sanitary authority are to be such as may be necessary for effectually draining their district for the purposes of the Public Health Act, 1875. It would not appear that the sanitary authority are under any obligation to make their sewers larger than would be otherwise required for the purposes of the district in order that they may be of sufficient capacity to receive the liquid refuse from manufactories. They are however required by Section 7 of the Rivers Pollution Prevention Act, 1876, to give facilities for enabling manufacturers within their district to carry the liquids proceeding from their factories or manufacturing processes into the sewers. This requirement, however, is not to extend to compel any sanitary or other local authority to admit into their sewers any liquid which would prejudicially affect such sewers or the disposal by sale, application to land, or otherwise, of the sewage matter conveyed along such sewers, or which would from its temperature or otherwise be injurious from a sanitary point of view; nor will any sanitary authority be required to give these facilities where their sewers are only sufficient for the requirements of their district, nor where such facilities would interfere with any order of any court of competent jurisdiction respecting the sewage of the authority.

Sanitary authorities to give facilities for factories draining into sewers (Rivers Pollution Prevention Act, 1876, Sec. 7).

It will be convenient in the next place to explain what are the powers of sanitary authorities as regards the sewerage of their districts.

Powers of sanitary authorities in relation to sewerage. Sewers vested in sanitary authorities (Public Health Act, 1875, Sec. 13).

Section 13 of the Public Health Act declares that, with the exceptions therein mentioned, all existing and future sewers [1] within the district of a sanitary authority, together with all buildings, works, materials, and things belonging thereto, shall vest in and be under the control of such sanitary authority. The exceptions mentioned in the section are:

(1) Sewers made by any person for his own [2] profit, or by any company for the profit of the shareholders;

(2) Sewers made and used for the purpose of draining, preserving, or improving land under any local or private Act of Parliament, or for the purpose of irrigating land; and

(3) Sewers under the authority of any Commissioners of Sewers appointed by the Crown.

[1] Note the definition of 'sewer' on p. 15, and especially that drains vested in or under the control of any authority having the management of roads, and not being a sanitary authority, do not vest in a sanitary authority under this section. Consequently where a rural sanitary authority does not exercise the powers of a highway board in pursuance of an order made under Section 4 of the Highways and Locomotives (Amendment) Act, 1875, the highway drains do not vest in the sanitary authority.

[2] It has been held that a sewer made by an owner for draining a street of houses cannot be considered to be made for the profit of the person making it merely because he has connected it with his houses. *Bonella* v. *Twickenham Local Board*, L. R. 18 Q. B. D. 577; 56 L. J. M. C. 73; 56 L. T. (N.S.) 486. *Acton Local Board* v. *Batten* L. R. 28 Ch. D. 283; 54 L. J. Ch. 251; 52 L. T. (N.S.) 17.

The section moreover provides [1] that sewers within the district of a sanitary authority which have been or which may hereafter be constructed by or transferred to some other sanitary authority, or by or to a Sewerage Board [2] or other authority empowered under any Act of Parliament to construct sewers shall (subject to any agreement to the contrary) vest in and be under the control of the authority who constructed them or to whom they have been transferred.

Power to purchase sewers (Sec. 14).

Any sanitary authority may purchase or otherwise acquire from any person any sewer, or any right of making [3] or of user or other right in or respecting a sewer (with or without any buildings, works, materials, or things belonging thereto) within their district; and any person may sell or grant to such authority any such sewer right or property belonging to him. But any person who previously to the purchase of a sewer by such authority has acquired a right to use such sewer will be entitled to use the same, or any sewer substituted in lieu thereof, to the same extent as he would or might have done if the purchase had not been made.

Powers of taking sewers through lands (Sec. 16).

Every sanitary authority has the widest powers [4] to take its sewers through any part of its own district, and subject to certain reasonable restrictions, to which reference will be made below, and so far as such powers are required for the disposal of sewage through any other district. The sewers may be carried 'through, across, or under any turnpike road, or any street or place laid out or intended for a street, or under any cellar or vault which may be under the pavement or carriage way of any street, and, after giving reasonable notice in writing to the owner or occupier (if on the report of the surveyor it appears necessary), into, through, or under any land whatsoever.

Compensation for damage to be ascertained by arbitration (Sec. 308).

For the purpose of exercising these powers it will not be necessary that the sanitary authority should purchase the lands through which the sewers are taken, but full compensation must be made for any damage done, and any dispute as to the fact of damage or amount of compensation must be settled by arbitration in manner prescribed by the Act, unless the compensation claimed does not exceed 20*l*., in which case it may, at the option of either party, be ascertained by and recovered before a court of summary jurisdiction.

Construction of sewers in mining districts (Public Health Act, 1875 (Support of Sewers) Amendment Act, 1883).

In mining districts these provisions were found to amount practically to a prohibition against the construction of sewers, in consequence of the decision *re Corporation of Dudley* (L. R. 8 Q. B. D. 86 (C. A.), 51 L. J. Q. B. 121, 45 L. T. (N.S.) 733), that a landowner was bound to preserve to the sewer subjacent support, and that he was entitled to be compensated immediately for this obligation. This result has, however, now been prevented by the Public Health Act, 1875 (Support of Sewers), Amendment Act, 1883, which has provided that a sanitary authority shall not, by reason only of anything in the Act or order authorising the construction of any sanitary [5] work, be deemed to have acquired or to be entitled to, or to be bound to acquire, or make com-

[1] This provision is necessary, as the sewers of one sanitary authority not unfrequently pass through the district of another authority. See pp. 19 and 20.

[2] As to the constitution of joint sewerage boards, see pp. 217 to 219.

[3] As regards the right of sanitary authorities to carry sewers both within and without their districts, see Section 16, below.

[4] These powers are subject to the savings in Section 327 of the Act, so far as regards property belonging to the Admiralty or War Office and the bridge, canal, dock, harbour, and other authorities therein mentioned.

[5] 'Sanitary work,' as defined by the Act, includes works of sewerage, drainage, sewage disposal, and water supply.

pensation for any right of support for such sanitary work as against any person owning or working or being lessee or occupier of or entitled to work or otherwise interested in any mine. This Act has rendered the provisions of the Waterworks Clauses Act, 1847, with respect to mines, applicable to sanitary works, with certain modifications. These provisions require the sanitary authority in any mining district to cause a map to be made of its underground sanitary works, and prohibit the working of the mines within a certain distance from such works, until notice has been given to the sanitary authority, who have the option in such a case of either purchasing the mines at a price to be fixed by arbitration, or of allowing the mining to proceed; in which latter case the sanitary authority will have to pay compensation for any damage caused to the mines by the sanitary work, if the mines are worked in the usual manner.

Restrictions on execution of sewerage works by a sanitary authority outside its district.

The restrictions imposed by the Act on the execution by sanitary authorities of sewerage works outside their districts are as follows:

Notices to be given (Public Health Act, 1873 (Sec. 32).

The authority must, three months at least before commencing the construction or extension of any sewer, or other work [1] for sewage purposes, without their district, give notice of the intended work by advertisement in one or more of the local newspapers circulated within the district where the work is to be made. Such notice must describe the nature of the intended work, and state the intended termini thereof, and the names of the parishes, and the turnpike roads and streets and other lands, if any, through, across, under, or on which the work is to be made; and must also name a place where a copy of the intended work is open for inspection at all reasonable hours; and a copy of such notice must be served on the owners or reputed owners,[2] lessees, or reputed lessees, or occupiers of the said lands, and on the overseers of such parishes, and on the trustees, surveyors of highways, or other persons having the care of such roads or streets.

In case of objections work not to be commenced without sanction of Local Government Board (Sec. 33).

If any such owner, lessee, or occupier, overseer, trustee, surveyor or other person, or any other owner, lessee, or occupier who would be affected by the intended work, objects to such work, and serves notice in writing on the sanitary authority within the three months, the work may not be commenced without the sanction of the Local Government Board, after such inquiry as is hereinafter mentioned, unless such objection is withdrawn.

Inspector to be appointed by Local Government Board to make inquiry and report (Sec. 34).

The Local Government Board may, on application of the sanitary authority, appoint an inspector to make inquiry on the spot into the propriety of the intended work, and into the objections thereto, and to report to them on the matters with respect to which such inquiry was directed; and on receiving his report, the Local Government Board may make an order disallowing or allowing the intended work, with such modifications, if any, as they may deem necessary.

Alteration and discontinuance of sewers (Sec. 18).

In addition to the foregoing powers, Section 18 provides that every sanitary authority may from time to time enlarge, lessen, alter the

[1] A liberal construction is likely to be placed by the courts on the words 'work for sewage purposes,' which were held in the case of the *Wimbledon Local Board* v. *Croydon Rural Sanitary Authority*, L. R. 32, Ch. Div. 421; 56 L. J., Ch. 159; 55 L. T. (N. S.) 106, to cover the cleansing and cementing of the bottom of a pool, into which the effluent of a sewage farm had been discharged.

[2] The word 'owner,' for the purposes of the Public Health Act, is defined as meaning the person for the time being receiving the rack-rent of the lands or premises in connection with which the word is used, whether on his own account, or as agent or trustee for any other person, or who would so receive the same, if such lands or premises were let at a rack-rent.

course of, cover in, or otherwise improve any sewer belonging to them, and discontinue, close up, or destroy any such sewer that has in their opinion become unnecessary, on condition of providing a sewer as effectual for the use of any person who may be deprived in pursuance of that section of the lawful use of any sewer, provided that the discontinuance, closing up, or destruction of the sewer is so done as not to create a nuisance.

Map of system of sewerage (Sec. 20).

Every urban [1] sanitary authority may, if they think fit, provide a map exhibiting a system of sewerage for effectually draining their district. Any such map must be kept at their office, and be open at all reasonable times to the inspection of the ratepayers of the district.

Penalty for unauthorised building over sewers in urban districts (Sec. 26).

For the protection of the sewers of urban [1] sanitary authorities, Section 26 provides that any person who, in any urban district, without the written consent of the sanitary authority, causes any building to be newly erected over any sewer of the sanitary authority, shall forfeit to the authority 5*l.*, and a further sum of 40*s.* for every day during which the offence is continued after written notice in this behalf from the authority; and the sanitary authority may cause any building erected in contravention of this section to be altered, pulled down, or otherwise dealt with as they may think fit, and recover in a summary manner any expenses incurred by them in so doing from the offender.

Injurious matters not to pass into sewers (Public Health Acts Amendment Act, 1890, Sec. 16).

Further provisions for the protection of sewers are contained in Section 16 of the Public Health Acts Amendment Act, 1890,[2] by which in any sanitary district in which Part III. of that Act has been adopted by any sanitary authority, a penalty not exceeding 10*l.*, and a continuing penalty not exceeding 20*s.* a day, are imposed on every person who throws, or suffers to be thrown, or to pass into any sewer of a sanitary authority, or any drain communicating therewith, any matter or substance by which the free flow of the sewage or surface or storm water may be interfered with. Section 17 of the same Act, which is also in force in every sanitary district in which Part III. of the Act has been adopted, imposes a further penalty not exceeding 10*l.*, and a continuing penalty not exceeding 5*l.* a day on every person who turns or permits to enter into any sewer of a sanitary authority, or any drain communicating therewith (*a*) any chemical waste, or (*b*) any waste steam, condensing water, heated water, or other liquid (of a higher temperature than 110° of Fahrenheit) which, either alone or in combination with the sewage, causes a nuisance or is dangerous or injurious to health.

Chemical refuse, steam, &c., not to pass into sewers (Sec. 17).

This section enables the sanitary authority, by any of their officers either generally or specially authorised in that behalf in writing, to

[1] These provisions, and any other provision of the Public Health Act, 1875, in force in urban sanitary districts, may be put in force in any rural sanitary district or contributory place. See pp. 11 and 12.

[2] This Act is divided into five parts. Parts II., III., IV. and V. are adoptive. An urban sanitary authority may adopt all or any of them. A rural sanitary authority may adopt so much of Part III. as is declared by the Act to be applicable to a rural sanitary authority without prejudice to the provisions of the Act relating to the investment of rural sanitary authorities with urban powers. The adoption must in each case be by resolution in manner provided by the Act. The provisions of Part III. which are declared by the Act to be applicable in rural sanitary districts are Sections 16, 17, 18, 19, 21, so much of Section 23 as applies to rural sanitary authorities, and Sections 25, 26 (2), 28, 32, 33, 47, 48, and 49. As to the contents of these sections, see above and pp. 29, 33, 40, 50, 55, 74, 109, 111, and 131. Section 5 of the Act enables the Local Government Board to declare any provisions of any part of the Act to be in force in any rural sanitary district in like manner and subject to the same provisions as they may declare provisions of the Public Health Act to be so in force. See p. 11.

enter any premises for the purpose of examining whether the provisions of the section are being contravened; and provides that if such entry be refused, any justice on complaint on oath by such officer, made after reasonable notice in writing of such intended complaint has been given to the person having custody of the premises, may, by order under his hand, require such person to admit the officer into the premises, and if it be found that any offence under the section has been or is being committed in respect of the premises, the order shall continue in force until the offence shall have ceased or the work necessary to prevent the recurrence thereof shall have been executed.

A person will not be liable to a penalty for an offence under this section until the sanitary authority have given him notice of its provisions, nor for an offence committed before the expiration of seven days from the service of such notice; but the sanitary authority are not required to give the same person notice more than once.

Power to compel sewering of private streets (Public Health Act, 1875, Sec. 150).

As has already been shown,[1] it is the duty of a sanitary authority to cause to be made such sewers as may be necessary for effectually draining their district. In the carrying out of this duty, the authority may, if they think fit to do so, sewer private as well as public streets, and charge the expenses on the rates. In urban sanitary districts, however, it is optional with the sanitary authority whether they will do this, or whether they will charge the expenses of sewering the private streets on the owners [2] and occupiers of the premises abutting on such streets. The practice of sanitary authorities differs considerably in this respect, and occasionally it has varied from time to time in the same district. It is difficult to lay down any general rule on the subject which will work equitably in all cases. The following considerations may, however, not improperly be borne in mind by a sanitary authority in determining whether in any particular instance a private street should be sewered at the cost of the ratepayers at large, or at that of the frontagers, viz., that the frontagers will, as ratepayers, contribute to the general expenses of the sewerage of the district; that they may, perhaps, have already done so; that if other private streets have been sewered at the expense of the rates, they will have contributed to the sewerage of these streets also; and that it will not usually be fair that they should pay for the whole of the cost of sewering their own street while contributing to the sewerage of other private streets.

If, after due consideration, the sanitary authority determine to charge the expenses of sewering a private street on the frontagers, they may proceed under Section 150 of the Public Health Act, 1875,[3] which enables them to require the frontagers to pay not only these expenses, but also the cost of such other works as may be necessary to place the street in a satisfactory condition. The section in question provides that where any street in any urban sanitary district (not being a highway repairable by the inhabitants at large), or the carriage way, footways, or any other part of such street is not sewered, levelled, paved, metalled, flagged, channelled, and made good, or is not lighted to the satisfaction of the urban sanitary authority, such authority may, by notice addressed to the respective owners or occupiers of the premises fronting, adjoining, or abutting on such parts thereof as require to

[1] See p. 15. [2] For the definition of 'owner,' see note 2 on p. 19.

[3] Or under the Private Street Works Act, 1892, if that Act has been adopted by the urban sanitary authority, or put in force in the rural sanitary district or contributory place.

be sewered, levelled, paved, metalled, flagged, or channelled, or to be lighted, require them to sewer, level, pave, metal, flag, channel, or make good, or to provide proper means for lighting the same within a time to be specified in the notice.

Before giving such notice the authority must cause plans and sections of any structural works intended to be executed under this section, and an estimate of the probable cost thereof, to be made under the direction of their surveyor, the plans and sections being on a scale of not less than one inch for 88 feet for a horizontal plan, and on a scale of not less than one inch for ten feet for a vertical section, and in the case of a sewer, showing the depth of the sewer below the surface of the ground. These plans, sections, and estimate must be deposited in the office of the urban sanitary authority, and be open at all reasonable hours for the inspection of all persons interested therein during the time specified in the notice. A reference to such plans and sections in the notice will be sufficient without any copy of them being annexed to the notice.

If the notice is not complied with, the urban sanitary authority may, if they think fit, execute the works mentioned or referred to therein, and may recover in a summary manner the expenses incurred by them in so doing from the owners in default, according to the frontage of their respective premises, and in such proportion as is settled by the surveyor of the authority, or, in case of dispute, by arbitration in manner provided by the Act, or they may by order declare the expenses so incurred to be private improvement expenses.[1]

Exemption of churches, chapels &c. (Sec. 153).

It would be beyond the scope of the present work to explain the numerous decisions of the courts on the questions which have arisen under this section. No charge may be imposed under it on any church, chapel, or place appropriated to public religious service, or on any churchyard or burial ground attached thereto.

Power to make bye-laws as to sewerage of new streets (Sec. 157).

The only other section of the Public Health Act relating to sewers to which it seems necessary to draw attention before proceeding to the question of sewage disposal is Section 151, which enables an urban sanitary authority to make bye-laws, amongst other things, 'with respect to the level width and construction of new streets and the provisions for the sewerage thereof.' These bye-laws, in common with all bye-laws made by sanitary authorities under the Public Health Act, are of no effect until confirmed by the Local Government Board, and when so confirmed are enforceable by penalties. For further information as to the bye-laws of sanitary authorities under the Act, see note 2 on page 33.

II. SEWAGE DISPOSAL

Duties of sanitary authorities as regards disposal of sewage.

The performance by sanitary authorities of their duties in relation to the disposal of the sewage conveyed by their sewers is not unfrequently attended with difficulties so great that they operate as a strong deterrent to authorities who would otherwise readily undertake the sewerage of their districts. These difficulties do not arise from any unreasonable restrictions imposed by the existing law, but from the necessity, which will be generally recognised, of so treating the sewage that it shall not create a nuisance or pollute any stream or watercourse.

[1] Private improvement expenses may be made payable by instalments over a short term of years, interest being paid on the amount of the principal from time to time remaining unpaid. They may moreover be levied on the occupier, whereas the expenses, if recovered summarily, will only be recoverable from the owner.

Sewage to be purified before it is discharged into stream &c. (Sec. 17).

Section 17 of the Public Health Act, 1875, provides that nothing in that Act shall authorise any sanitary authority to make or use[1] any sewer, drain, or outfall for the purpose of conveying sewage or filthy water into any natural stream or watercourse, or into any canal, pond, or lake, until such sewage or filthy water is freed from all excrementitious or other foul or noxious matter such as would affect or deteriorate the purity and quality of the water in such stream or watercourse, or in such canal, pond, or lake.

The object of this section, which was taken from the Local Government Bill, 1858, appears to have been to make it clear that the powers conferred by the Act on sanitary authorities in relation to the making and acquisition of sewers did not authorise a sanitary authority to make any sewer or use any sewer which they might acquire for the purpose of conveying unpurified sewage into streams, watercourses, canals, ponds, or lakes. The section, in fact, practically reserved to persons aggrieved by the discharge of unpurified sewage into these places the same right to obtain an injunction against any offending authority that they would have had against any other offender.

Rivers Pollution Prevention Acts, 1876 and 1893.

The law relating to pollutions of streams by sewage has in some respects been altered since the passing of the Public Health Act, 1875, by the Rivers Pollution Prevention Acts, 1876 and 1893, which, while on the one hand they have cheapened the cost of legal proceedings against sanitary authorities in respect of such pollutions, by enabling any person aggrieved by the commission of the offence to institute proceedings against them in the county court having jurisdiction in the place where the offence is committed, have, on the other hand, given a certain amount of protection to the sanitary authorities of districts the sewage of which passed into streams[2] along channels used, constructed, or in process of construction at the date of the passing of the Act of 1876.

The third section [3] of that Act contains the following provisions:—

Discharge of sewage into streams (Sec. 3.)

'Every person [4] who causes to fall or flow, or knowingly permits to fall or flow or to be carried into any stream, any solid or liquid sewage matter, shall (subject as in this Act mentioned) be deemed to have committed an offence against this Act.

'Where any sewage matter falls or flows, or is carried into any stream along a channel used, constructed, or in process of construction

[1] The mere fact that a sewer which is vested in the sanitary authority is allowed to be used by persons who have a right to use it does not make the sewer used by the authority within the meaning of this section, where no permission has been given by the authority to such user, and the authority does not itself convey sewage by means of the sewer. *Attorney-General* v. *Guardians of the Dorking Union*, L. R. 20, Ch. D. 505; 51 L. J. Ch. 590; 46 L. T. (N.S.) 573; 30 W. R. 579. *Glossop* v. *Heston and Isleworth Local Board*, L. R. 12 Ch. D. 102; 49 L. J. Ch. 89; 40 L. T. (N.S.) 736; 28 W. R. 111.

[2] 'Stream' as defined by the Act includes the sea to such extent, and tidal waters to such point, as may, after local inquiry and on sanitary grounds, be determined by the Local Government Board, by order published in the *London Gazette*. Save as aforesaid, it includes rivers, streams, canals, lakes, and watercourses, other than watercourses at the passing of the Act mainly used as sewers, and emptying directly into the sea, or tidal waters which have not been determined to be streams within the meaning of the Act by such order as aforesaid.

[3] This section has been amended by the Act of 1893, which provides that where any sewage matter falls, or flows, or is carried into any stream after passing through or along a channel vested in a sanitary authority, the authority shall, for the purposes of the Act of 1876, be deemed to knowingly permit the sewage matter so to fall, flow, or be carried.

[4] 'Person' is defined as including any body of persons, corporate or unincorporate. It therefore includes a sanitary authority.

at the date of the passing of this Act for the purpose of conveying such sewage matter, the person causing or knowingly permitting the sewage matter so to fall or flow or to be carried shall not be deemed to have committed an offence against this Act if he shows to the satisfaction of the court having cognisance of the case that he is using the best practicable and available means to render harmless the sewage matter so falling or flowing or carried into the stream.

'Where the Local Government Board are satisfied after local inquiry that further time ought to be granted to any sanitary authority which at the date of the passing of this Act is discharging sewage matter into any stream, or permitting it to be so discharged, by any such channel as aforesaid, for the purpose of enabling such authority to adopt the best practicable and available means for rendering harmless such sewage matter, the Local Government Board may by order declare that this section shall not, so far as regards the discharge of sewage matter by such channel, be in operation until the expiration of a period to be limited in the order.

'Any order made under this section may be from time to time renewed by the Local Government Board, subject to such conditions, if any, as they may see fit.

'A person other than a sanitary authority shall not be guilty of an offence under this section in respect of the passage of sewage matter into a stream along a drain communicating with any sewer belonging to or under the control of any sanitary authority, provided he has the sanction of the sanitary authority for so doing.'

Certificate of inspector of Local Government Board as to best practicable means (Sec. 12).

Section 12 of the same Act provides that a certificate granted by an inspector of proper qualifications appointed for the purposes of the Act by the Local Government Board, to the effect that the means used for rendering harmless any sewage matter or poisonous, noxious, or polluting solid or liquid matter fallen or flowing or carried into any stream are the best or only practicable and available means under the circumstances of the particular case, shall in all courts and in all proceedings under the Act be conclusive evidence of the fact; and that such certificate shall continue in force for a period to be named therein, not exceeding two years, and at the expiration of that period may be renewed for the like or any less period.

All expenses incurred in or about obtaining a certificate under this section must be paid by the applicant for the same.

Any person aggrieved by the grant or the withholding of a certificate under this section may appeal to the Local Government Board against the decision of the inspector; and the Local Government Board may either confirm, reverse, or modify his decision, and may make such order as to the party or parties by whom the costs of the appeal are to be borne as to their board may appear just.

Orders of county court under the Act (Sec. 10).

As has been already mentioned, proceedings may be instituted under the Act in the county court. Where this is done, the court may by summary order require the sanitary authority to abstain from the commission of any offence under the Act. When such offence consists in default to perform a duty under the Act, the court may require the authority to perform such duty in manner as the order specified. The court may also insert in any order such conditions as to time or mode of action as it may think just, and may suspend or rescind any order on such undertaking being given or condition being performed as it may think just, and generally may give such directions

for carrying into effect any order as to the court seems meet. Previous to granting such order the court may, if it think fit, remit to skilled parties to report on the 'best practicable and available means' and the nature and costs of the works and apparatus required, and such parties must in all cases take into consideration the reasonableness of the expense involved in their report.

A sanitary authority making default in complying with any requirement of an order of a county court made in pursuance of these provisions may be required to pay to the person complaining, or such other person as the court may direct, such sum, not exceeding fifty pounds a day for every day during which he is in default, as the court may order. Moreover, if the sanitary authority so in default persists in disobeying any requirements of any such order for a period of not less than a month, or such other period less than a month as may be prescribed by such order, the court may, in addition to any penalty it may impose, appoint any person or persons to carry into effect such order, and all expenses incurred by any such person or persons to such amount as may be allowed by the county court, will be deemed to be a debt due from the authority to such person or persons, and may be recovered accordingly in the county court.

Appeal from county court, and removal of case into High Court of Justice (Sec. 11).

If either party, in any proceedings before the county court under the Act, feels aggrieved by the decision of the court in point of law or on the merits, or in respect of the admission or rejection of any evidence, he may appeal from that decision to the High Court of Justice.

Powers of sanitary authorities with reference to disposal of sewage (Public Health Act, 1875, Sec. 27).

The above statement shows the restrictions which have been imposed by statute on the discharge by sanitary authorities of unpurified sewage into streams.

The following are the powers which have been conferred on these authorities by the Public Health Act for the purpose of enabling them to render their sewage innocuous.

The 27th section of that Act provides that for the purpose of receiving, storing, disinfecting, distributing, or otherwise disposing of sewage, any sanitary authority may:

(1) Construct any works within their district, or (subject to the provisions[1] of the Act as to sewage works without the district of the sanitary authority) without their district; and

(2) Contract for the use of, purchase, or take on lease any land, buildings, engines, materials, or apparatus, either within or without their district; and

(3) Contract to supply for any period not exceeding 25 years any person with sewage, and as to the execution and costs of works either within or without their district for the purposes of such supply.

The section, however, provides that no nuisance may be created by the exercise of the powers thus given.

Acquisition of lands.

These powers have in practice been found amply sufficient to enable sanitary authorities to satisfactorily purify their sewage in cases where they have been able to acquire by lease or purchase a sufficient area of suitable land for the reception and treatment of the sewage. It, however, not unfrequently happens that they are unable to do this without having recourse to the compulsory powers of purchase which are given to them by Section 176 of the Act for any of the purposes of the Act. That section incorporates the greater part of the Lands Clauses Acts, 1845, 1860, and 1869, but requires the sanitary authority, before putting

[1] As to these provisions, see pp. 19 and 20.

in force any of the powers of those Acts with respect to the purchase and taking of lands otherwise than by agreement, to obtain a provisional order from the Local Government Board, which order is of no effect until confirmed by Parliament. It scarcely comes within the scope of the present work to describe the preliminary steps which have to be taken by sanitary authorities with a view to obtaining these orders, nor the subsequent procedure in common with their confirmation. Full information on both these points will be found in Sections 176, 297, and 298 of the Public Health Act.

Power to deal with land appropriated to sewage purposes (Sec. 29).

Any sanitary authority may deal with any lands held by them for the purpose of receiving, storing, disinfecting, or distributing sewage in such manner as they deem most profitable, either by leasing the same for a period not exceeding twenty-one years, for agricultural purposes, or by contracting with some person to take the whole or a part of the produce of such land, or by farming such land and disposing of the produce thereof; subject to this restriction, that in dealing with land for any of the above purposes provision must be made for effectually disposing of all the sewage brought thereto without creating a nuisance.

Power to contribute to works executed by others for disposal of the sewage (Sec. 30).

Where any sanitary authority agrees with any person as to the supply of sewage, and as to works to be made for the purposes of such supply, they may contribute to the expense of carrying into execution by such person all or any of the purposes of such agreement, and may become shareholders in any company with which any agreement in relation to the matters aforesaid has been or may hereafter be entered into by such sanitary authority, or to or in which the benefits and obligations of such agreement may have been or may be transferred or vested.

Application of improvement of Land Act, 1864 (Sec. 31).

The making of works of distribution and service for the supply of sewage to lands for agricultural purposes will be deemed an improvement of land authorised by the Improvement of Land Act, 1864, and the provisions of that Act will apply accordingly. The effect of this enactment is to enable landowners of limited interests to charge their estates with sums expended on the works in question, if it can be shown to the satisfaction of the Board of Agriculture that such works will effect a permanent yearly increase in the value of such estates for agricultural purposes, exceeding the yearly amount proposed to be charged thereon.

Power to agree for communication of sewers with sewers of adjoining district (Sec. 28).

It occasionally happens that the configuration of a sanitary district is such that there would be great difficulty in providing a separate system of sewage disposal for it, or for some part of it, but that the district or a part of it could be easily sewered if its sewage were allowed to pass into the sewers of the sanitary authority of an adjoining district. To meet such cases, Section 28 of the Public Health Act provides that the sanitary authority of any district may, by agreement with the sanitary authority of any adjoining district, and with the sanction of the Local Government Board, cause their sewers to communicate with the sewers of such last-mentioned authority, in such manner and on such terms and conditions as may be agreed upon between the two authorities, or, in case of dispute, may be settled by the Local Government Board, provided that so far as practicable storm-waters shall be prevented from flowing from the sewers of the first-mentioned authority into the sewers of the last-mentioned authority, and that the sewage of other districts and places shall not

be permitted by the first-mentioned authority to pass into their sewers so as to be discharged into the sewers of the last-mentioned authority without the consent of the last-mentioned authority.

Under this section the settlement of the terms and conditions of the communication can only be made by the Local Government Board when the two authorities have agreed that their sewers shall communicate. It will usually be found, if practicable, the most satisfactory plan for both parties to determine these terms and conditions themselves before deciding whether or not their sewers shall communicate. There are, however, some cases in which it is manifest that the sewage of one district must pass through the sewers of an adjoining district; and in such a case a friendly reference under this section to the Local Government Board to settle the terms and conditions of the communication may be to the advantage of both parties.

I. AND II. COST OF WORKS OF SEWERAGE AND SEWAGE DISPOSAL AND OTHER PUBLIC SANITARY WORKS

Borrowing of money.

It would of course be financially impossible for most sanitary authorities to provide a system of sewerage and sewage disposal, or indeed to execute any expensive permanent works under the Public Health Act, out of their current rates and revenues. Ample powers are, however, given to them to mortgage their rates both for these and other purposes of the Act, subject to the sanction of the Local Government Board, and to the condition that the money borrowed shall be repaid by equal annual instalments of principal or of principal and interest, within such period, not exceeding sixty years, as the sanitary authority, with the sanction of that Board, may in each case determine. The usual periods allowed for the repayment of these loans are fifty years when the money is borrowed for the purchase of land, and thirty years when it is required for the construction of sewers, water mains, or other similar works. Considerably shorter periods, varying according to the nature of the works, are allowed for loans expended on the laying out of sewage farms and other less permanent purposes. If any of the works are to be carried out on land held on lease, no longer term is of course permissible than the unexpired term of the lease. The Local Government Board require their sanction to be obtained to these loans before the commencement of the works; and considerable inconvenience may be occasioned to the sanitary authority by any neglect to comply with this requirement. On the recommendation of the Local Government Board, the money may be advanced at a reduced rate of interest by the Public Works Loan Commissioners.

Secs. 233–243.

Incidence of charge of expenses of sewerage and other public sanitary works in urban districts (Sec. 207).

As the incidence of the charge for sewerage and other sanitary works often has an important bearing on the practical question of the amount which a sanitary authority is disposed to expend on their execution, it seems desirable to give, very briefly, a general outline of the law relating to this subject. In urban sanitary districts, where there is no local Act in force, the expenses of these works are a charge on the general district rate, except in certain boroughs, in which the provisions of the Local Government Act, 1858, as to rating, were not in full force prior to the passing of the Public Health Act, 1872. The expenses of the sewering of private streets are either borne by the same rates, or by the frontagers (see page 21). Local Acts are so numerous

Public Health Act, 1872 (Sec. 16).

and contain such varied provisions that it is impossible to make any unqualified statement as to their contents. But, speaking generally, the expenses of sewerage and sewage disposal in a district in which a local Act is in force, if not payable out of a general district rate or borough rate, are payable out of an improvement rate, the incidence of which usually resembles that of a general district rate in so far as lands and other properties, other than houses, are assessed to it at less than their full value. In some cases agricultural lands and other properties, either in the whole or in part of the district, are, under local Acts, exempted altogether from contributing to these rates. All kinds of rateable property in an urban sanitary district are rated equally for the purposes of a borough rate, subject to certain deductions allowed to the owners of certain classes of house property, for which the owner is rated to the poor rate instead of the occupier (Sections 144 and 147 of the Municipal Corporations Act, 1882); but for the purposes of a general district rate, while the owners and occupiers of house property, subject to the deductions above referred to, are assessed at its full net annual value, the owners of tithes or tithe rent-charge, and 'the occupier of any land used as arable, meadow, or pasture ground only, or as woodland, market gardens, or nursery grounds, and the occupier of any land used only as a canal, or a towing-path for the same, or as a railway constructed under the powers of any Act of Parliament for public conveyance,' are assessed in respect of these properties in the proportion of one-fourth part only of their net annual value (Section 211 (1) (*c*) of the Public Health Act, 1875). The general district rate is usually levied over the whole of the district; but this is not always the case, for by Sub-section 1 of the last-mentioned section a sanitary authority is empowered to divide its district into parts for all or any of the purposes of the Act, and to make separate assessments on every such part for the purposes for which it is formed. Hence, if one part only of an urban district is sewered, the sanitary authority can charge the expense of the sewering on such part only. This, however, is a power which, on account of the inconveniences attendant on differential rating, is but seldom used.

Incidence of charge of expense of sewage and water supply in rural districts. Contributory places (Sec. 229).

In rural sanitary districts which for the most part consist of a considerable number of parishes, or parts of parishes, the expenses of sewerage and sewage disposal and of water supply are not charged on the entire district, but constitute a separate charge on the parishes or parts of parishes for which the works have been carried out, and the areas liable to contribute to these expenses are termed 'contributory places.' There are four kinds of contributory places: (1) A rural sanitary authority may, by resolution approved by the Local Government Board, but not otherwise, constitute any portion of the area within its jurisdiction a 'special drainage district' for the purpose of charging thereon exclusively the expenses of works of sewerage, water supply, or other works, the cost of which is not spread over the entire district, and thereupon such area becomes a 'contributory place'; (2) where no part of a parish is situate in a special drainage district, or in an urban sanitary district, the entire parish is a contributory place; (3) where no part of a parish is in an urban sanitary district, but part of it is in a special drainage district, the part not in a special drainage district is a contributory place; (4) where a part of a parish is in an urban sanitary district and part in a rural district, so much

of the parish as is not in an urban district or special drainage district is a contributory place.

Special expenses and general expense (Sec. 229).

Such of the expenses of a rural sanitary authority as constitute a separate charge on each contributory place are termed 'special expenses' as distinguished from 'general expenses,' which are the expenses of the sanitary authority, to which the whole of the rural district is liable to contribute. General expenses are payable out of the poor rate,[1] as are also special expenses when the amount which the contributory place is called upon to pay in respect of them is less than 10*l.*, or is so small that a rate of less than a penny in the pound would be required to meet them. In other cases special expenses are payable out of a separate rate to which the properties which for the purposes of a general district rate are assessed at one-fourth part only of the amount payable in respect of houses and other properties assessable at their full values.

Sec. 230.

Power of Local Government Board to declare expenses special (Public Health Acts Amendment Act, 1890, Sec. 49).

In any rural sanitary district in which Part III. of the Public Health Acts Amendment Act, 1890, has been adopted, the Local Government Board may by order, on the application of the rural sanitary authority, declare any expenses incurred by the authority to be 'special expenses.' Consequently any expenses incurred by a rural sanitary authority solely on behalf of one or more contributory places in their district can, on the application of the rural sanitary authority where this part of the Act is in force, be made a separate charge on such place or places.

Expenses incurred for the common benefit of two or more contributory places (Sec. 229).

Where a rural sanitary authority makes any sewers or executes any other work under the Public Health Act, 1875, for the common benefit of any two or more contributory places in its district, it may apportion the expenses of constructing any such work and of maintaining the same between such contributory places, subject to an appeal within twenty-one days from the notice of the apportionment from the overseers of the contributory place to the Local Government Board.

Considerations to be borne in mind with reference to the formation of special drainage districts.

In connection with the adoption of schemes of sewerage in rural districts, the question is frequently raised whether it is not desirable to form the portions of one or more contributory places which will directly benefit by the execution of the works into a special drainage district so as to throw the cost of the works altogether on the area which will have the use of them. It is, however, only in very exceptional cases that such a course can be recommended. It is to be borne in mind that the proportion of the cost contributed by the occupiers of land is comparatively small, as they are assessed for this purpose at the reduced estimate of one-fourth. Consequently the grievance to be removed is not often a great one, especially in cases where the owners of the land are owners of the houses also. It is, moreover, usually found very difficult to draw a satisfactory boundary for a special drainage district, so as not to exclude any lands which should be within the new rating area, and at the same time not to include any which should be left outside it. In drawing the line care should of course be taken to leave room for any future development of building which may reasonably be expected to take place in the area for some years to come; for a special drainage district cannot be extended except by dissolving it and setting up another in its place, and any special drainage district in which a loan has been raised for the execu-

[1] The incidence of the poor rate is the same as that of the borough rate, to which reference is made at p. 28.

tion of works can only be dissolved by a Provisional Order confirmed by Act of Parliament (Section 270 [3]). These considerations, coupled with the inexpediency of multiplying the rating areas in an union, should render a rural sanitary authority very chary in having recourse to the unnecessary formation of these districts.

III. DRAINAGE OF HOUSES

Power of sanitary authority to enforce drainage of undrained houses (Sec. 23).

Every urban and rural sanitary authority is empowered by the Public Health Act, 1875, to enforce the drainage of undrained houses,[1] whether or not a system of sewers has been provided which will be available for the reception of the house sewage. Where any house[1] is without a drain[2] sufficient for effectual drainage, it is the duty of the sanitary authority by written notice to require the owner[3] or occupier, within a reasonable time, specified in the notice, to make a covered drain, or drains emptying into any sewer which the authority is entitled to use, and which is not more than 100 feet from the site of the house; but if no such means of drainage are within this distance, then emptying into such covered cesspool,[4] or other place, not being under any house, as the authority direct; and the authority may require any such drain or drains to be of such material and size, and to be laid at such level, and with such fall, as on the report of their surveyor may appear to them to be necessary.

If this notice is not complied with, the sanitary authority may, after the expiration of the time specified in the notice, do the work required, and may recover in a summary manner the expenses incurred by them in so doing from the owner, or may by order declare the same to be private improvement expenses.[5]

Where, in the opinion of the sanitary authority, greater expense would be incurred in causing the drains of two or more houses to empty into an existing sewer pursuant to the above provisions than in constructing a new sewer and causing such drains to empty therein, the sanitary authority may construct such new sewer, and require the owners or occupiers of such houses to cause their drains to empty therein, and may apportion as they deem just the expenses of the construction of such sewer among the owners of the several houses, and recover in a summary manner the sums apportioned from such owners, or may by order declare the same to be private improvement expenses.

Power in certain cases to sanitary authority to close existing drains on condition of providing others (Sec. 24).

In some cases, previously to the carrying out of a proper system of sewerage for a district, houses have been provided with drains communicating with sewers; which drains, though sufficient for the effectual drainage of the houses, are not adapted to the general sewerage system of the district, or are, in the opinion of the sanitary

[1] 'House' is defined by Section 4 of the Public Health Act, 1875, as including schools, also factories and other buildings in which *more than twenty* persons are employed *at one time*. The words 'more than twenty' and 'at one time' have been repealed by the Factory and Workshop Act, 1878, which has also provided that the Public Health Act, 1875, shall apply to buildings in which persons are employed, whatever their number may be, in like manner as it applies to buildings where more than twenty are employed.

[2] For the definition of 'drain,' see p. 15.

[3] For the definition of 'owner,' see note 2 on p. 19.

[4] As to the power of urban sanitary authorities to make bye-laws with respect to cesspools in connection with buildings, see p. 33.

[5] As to the effect of declaring the expenses to be private improvement expenses, see note 1 on p. 22.

authority,[1] otherwise objectionable. In these cases, the sanitary authority may, on condition of providing one or more drains as effectual for the drainage of the house, and communicating with such other sewer as they think fit, close the existing drains, and do any works necessary for that purpose; and the expenses of such works, and of any drain or drains provided by the authority under the above powers, will be deemed to be expenses[2] properly incurred by them in the execution of the Public Health Act.

Right of owner or occupier to drain into the sewers of the sanitary authority.

It should be noted that the above provisions do not extend to cases where, in consequence of the delay of the sanitary authority in the construction of its sewers, it has been necessary to provide the house with a cesspool, and the house has an effectual drain communicating with the cesspool. Consequently in such a case the sanitary authority are under no obligation to pay the costs of the drain or drains necessary for the purpose of enabling the house to discharge its sewage into the new sewers. The desirability of drains being emptied into sewers rather than into cesspools is, however, so fully recognised by the Act that the owners and occupiers of premises are entitled under the Act to cause[3] their drains to communicate with the sewers either of the sanitary authority of the district in which such premises are situate, or of any other sanitary authority. If the sewer belongs to the sanitary authority of the district in which the premises are situate, the communication may be made by the owner or occupier, on condition of his giving such notice as may be required by the sanitary authority of his intention so to do, and of his complying with the regulations of the authority in respect of the mode in which the communication is to be made, and subject to the control of any person who may be appointed by the authority to superintend the making of the communication.

Where the sewer is in the same sanitary district (Sec. 21).

Any person causing a drain to empty into a sewer of a sanitary authority under these provisions without complying with the above requirements will be liable to a penalty not exceeding 20*l.*; and the sanitary authority may close any communication between a drain and a sewer made in contravention of these provisions, and recover in a summary manner from the person so offending any expenses incurred by them in the matter.

Where the sewer is in another sanitary district (Sec. 22).

Where the communication is made with the sewers of the sanitary authority of a district in which the premises are not situate, it must be made on such terms and conditions as may be agreed upon between the owner and occupier and the sanitary authority to whom the sewer belongs, or, as in case of dispute, may be settled at the option of the owner or occupier by a court of summary jurisdiction or by arbitration in manner provided by the Public Health Act. In these cases, as the premises to be drained will not contribute to the rates of the district which has provided the sewer, a charge will no doubt usually be made for the privilege of using the sewer.

These communications can be usually better and more conveniently

[1] If the drain is an old one it will very often be unsuitable to the sanitary requirements of the house.

[2] As to the incidence of charge of these expenses in urban and rural districts, see pp. 27 to 30.

[3] This right is simply a right as between the owner or occupier in question and the sanitary authority. It does not authorise the owner or occupier to carry his drain to the sewer through private land belonging to some other person without his consent. On the other hand, there is no limitation as to the distance to which the drain may be carried to the sewer.

Right of owner or occupier to require the sanitary authority to make the communication at his cost (Public Health Acts Amendment Act, 1890, Sec. 18).

made by the sanitary authority than by private individuals. Section 18 of the Public Health Acts Amendment Act, 1890 (which, as has already been shown, p. 20, is only in force in sanitary districts in which Part III. of that Act has been adopted), has therefore provided that where any owner or occupier of any premises is entitled to cause any sewer or drain therefrom to communicate with any sewer of the sanitary authority, the sanitary authority must, if requested to do so by such owner or occupier, and upon the cost thereof being paid in advance to the sanitary authority, themselves make the communication and execute all works necessary for that purpose. The cost is to be estimated by the surveyor of the sanitary authority; and if the owner or occupier is dissatisfied with the estimate, he may apply, if the estimate is under 50*l.*, to a court of summary jurisdiction to fix the amount to be paid, and, if the amount is over 50*l.*, may require the same to be determined by arbitration.

Power of sanitary authority to make, alter, &c., sewers or drains for owners.

The same section enables the sanitary authority to agree with the owner of any premises that any sewer or drain which such owner is required or desires to make, alter, or enlarge, or any part of such sewer or drain, shall be made, altered, or enlarged by the sanitary authority.

Where the drain or cesspool is a nuisance or injurious to health, what proceedings are to be taken by the sanitary authority (Public Health Act, 1875, Sec. 41, 91, &c.)

It is the duty of every sanitary authority to provide that all drains and cesspools within their district be constructed and kept so as not to be a nuisance or injurious to health; and in the event of this requirement not being complied with, the sanitary authority may take proceedings for enforcing it, either under Section 41 of the Act, or under the provisions of the Act relating to nuisances. As to the proceedings to be taken in these cases, see below, pp. 49 and 61 to 68.

The foregoing provisions extend indifferently to drains and houses in urban and rural sanitary districts, and apply to existing houses without regard to the date of their erection. The following relate only to houses in urban sanitary districts, except in cases where they are put in force[1] in a rural sanitary district or contributory place; and they do not in any case extend to houses which were erected before the Local Government Acts came into force in the district.

Requirements as to drainage in cases of houses newly built or rebuilt in urban districts (Sec. 25).

It is not lawful in any urban sanitary district newly to erect any house, or to rebuild any house which has been pulled down to or below the ground floor, or to occupy any house so newly erected or rebuilt, unless and until a covered drain or drains be constructed, of such size and materials, and at such level, and with such fall as on the report of the surveyor may appear to the sanitary authority to be necessary for the effectual drainage of such house; and the drain or drains so to be constructed must empty into any sewer which the sanitary authority are entitled to use, and which is within 100 feet of some part of the site of the house to be built or rebuilt. If no such means of drainage are within that distance, the drain or drains must empty into such covered cesspool, or other place not being under the house, as the sanitary authority direct. Any person who causes any house to be erected or rebuilt, or any drain to be constructed, in contravention of these provisions will be liable to a penalty not exceeding 50*l.*

Powers of urban sanitary authorities to make bye-laws with respect to the drainage of buildings and to cesspools in connection with buildings (Sec. 157).

The above are the statutory requirements of the Public Health Act as regards the drainage of houses. They obviously fall very far short of forming, from a sanitary point of view, a satisfactory code of regulations on this important subject. For example, they in no way deal with the trapping and ventilation of drains, the disconnection of

[1] See note 1 on next page.

waste pipes from baths, sinks, and lavatories, or indeed with any of the work necessary for the protection of the interior of a building from sewer gas. Moreover, although they recognise the lawfulness of using cesspools in cases where there is no sewer into which the house drainage can be discharged, they do not lay down any rules for the construction and ventilation of these receptacles, or their situation, so far as practicable, at proper distances from the sources of water supply. In order that urban[1] sanitary authorities might be enabled to deal with these and kindred matters in connection with new buildings and cesspools, they were empowered by Section 157 of the Public Health Act, 1875, to make bye-laws[2] with respect to the drainage of buildings and to cesspools in connection with buildings, and to provide for the observance of any bye-laws made under this section, by enacting therein such provisions as they might think necessary as to the deposit of plans and sections by persons intending to construct buildings, as to inspection by the urban sanitary authority, and as to the power of the authority (subject to the provisions of the Act) to remove, alter, or pull down any work begun or done in contravention of such byelaws. But the section provided that no bye-law made under it should affect any building erected in any place which, at the time of the passing of the Public Health Act, 1875 (i.e. August 11, 1875), was included in an urban sanitary district before the Local Government Acts came into force in such place, or any building erected in any place which, at the time of the passing of the Act, was not included in any urban sanitary district, before such place became constituted or included in an urban sanitary district, or by virtue of any[3] order of the Local Government Board subject to this enactment. Nor might any bye-law made under the section apply to buildings belonging to any railway company, and used for the purposes of such railway under any Act of Parliament.

The operation of this section has been extended by Section 23 of the Public Health Acts Amendment Act, 1890, so as to enable

[1] As to the manner in which these provisions may be put in force in rural sanitary districts or contributory places, see p. 11.

[2] All bye-laws made by sanitary authorities under and for the purposes of the Public Health Act, 1875, must be under their common seal; and any such bye-law may be altered or repealed by a subsequent bye-law made pursuant to the provisions of the Act. But no bye-law made under the Act by a sanitary authority will be of any effect if repugnant to the laws of England or to the provisions of the Act. Any sanitary authority may, by any bye-laws made by them under the Act, impose on offenders against the same such reasonable penalties as they think fit, not exceeding 5*l.* for each offence, and, in the case of a continuing offence, a further penalty not exceeding 40*s.* for each day after written notice of the offence from the sanitary authority; but all such bye-laws imposing any penalty must be so framed as to allow of the recovery of any sum less than the full amount of the penalty. Bye-laws made by a sanitary authority under the Act do not take effect unless and until they have been confirmed by the Local Government Board, who have power to allow or disallow the same as they think proper; nor may any such bye-laws be confirmed unless notice of the intention to apply for their confirmation has been given in one or more local newspapers circulating in the district to which the bye-laws relate, one month at least before the making of the application, and unless for one month at least before the application a copy of the proposed bye-laws has been kept at the office of the sanitary authority, and has been open during office hours thereat for the inspection of the ratepayers of the district. The bye-laws, when confirmed, must be printed and hung up in the office of the sanitary authority, and a copy of them must be delivered to any ratepayer of the district on his application for the same. A copy of any bye-laws made by a rural sanitary authority must also be transmitted to the overseers of every parish to which the bye-laws relate, to be deposited with the public documents of the parish, and to be open to the inspection of any ratepayer of the parish at all reasonable hours. See Sections 182 to 185 of the Public Health Act, 1875.

[3] As to these orders, see p. 11.

Extension of Sec. 157 to old buildings and rural sanitary districts (Public Health Acts Amendment Act, 1890, Sec. 23).

any urban sanitary authority which has adopted Part III. of that Act to make bye-laws with respect to the drainage of buildings, and cesspools in connection with buildings, so as to affect buildings erected before the time mentioned in Section 157, and to empower rural sanitary authorities who have adopted Part III. of the Act to make bye-laws in respect of the same matters, and to provide for their observance, and to enforce them in the same manner as if such powers were conferred on the rural sanitary authorities, by virtue of an order of the Local Government Board made on the day when Part III. of the Act was adopted. Rural sanitary authorities can therefore now, by adopting this part of the Act, obtain these very important powers throughout their districts without the intervention of any order of the Local Government Board.

As to commencement of works and removal of works made contrary to bye-laws (Public Health Act, 1875, Sec. 158). Public Health Acts Amendment Act, 1890 (Sec. 23).

Where a notice, plan, or description of any work is required, by any bye-law made by a sanitary authority under the foregoing provisions, to be laid before that authority, the authority must within one month after the same has been delivered or sent to the surveyor or clerk, signify in writing their approval or disapproval of the intended work to the person proposing to execute the same; and if the work is commenced after such notice of disapproval, or before the expiration of such month without such approval, and is in any respect not in conformity with any bye-law of the authority, the authority may cause so much of the work as has been executed to be pulled down or removed. Expenses incurred by the authority in or about the removal of any work executed contrary to any bye-law may be recovered in a summary manner either from the person executing the works removed, or from the person causing the works to be executed, at the discretion of the authority.

Where an authority under these provisions pull down or remove any work begun or executed in contravention of any bye-law, or where the beginning or the execution of the work is an offence in respect whereof the offender is liable in respect of any bye-law to a penalty, the existence of the work during its continuance in such a form and state as to be in contravention of the bye-law will be deemed to be a continuing offence; but a penalty will not be incurred in respect thereof after the expiration of one year from the day when the offence was committed or the bye-law broken.

What to be deemed a new building (Sec. 159).

For the purposes of the Act, the re-erecting of any building pulled down to or below the ground floor, or of any frame building of which only the framework is left down to the ground-floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only, will be considered the erection of a new building.

Model bye-laws of Local Government Board as to drainage of buildings.

The Local Government Board have issued a series of model bye-laws relating to the various matters for which bye-laws may be made by a sanitary authority under the foregoing provisions. This series should be carefully considered by sanitary authorities proposing to make bye-laws for any of these purposes. It will be sufficient here to indicate very briefly the nature of the provisions contained in such of these bye-laws as deal with the drainage of buildings, and with cesspools in connection with buildings. The bye-laws with respect to the drainage of buildings (omitting those relating to the giving of notices, deposit of plans and sections, &c.) are seven in number. They provide, in connection with every new building, (1) for the effectual drainage of

the subsoil; (2) for the construction of the lowest story at such a level as will allow of the construction of a drain sufficient for the effectual drainage of the building, and the provision of the requisite communication with a sewer or cesspool; (3) for the materials, dimensions, and construction of the drains, which are not to pass under the building, except in cases where no other mode of construction is practicable, and then only under certain specified conditions; (4) for the trapping of the drains; (5) for the junctions of the drains which are in no case to be right-angled, every branch or tributary drain being prohibited from joining any other drain, except obliquely in the direction of the flow of such last-mentioned drain; (6) for the ventilation of the drains; and (7) for the proper construction of soil pipes and waste pipes from slop sinks, and the disconnection of all other waste and overflow pipes from baths, lavatories, cisterns, &c.

As to cesspools in connection with buildings.

The bye-laws relating to the construction of cesspools in connection with buildings are, from the nature of the case, less elaborate. They require the cesspools to be constructed at certain specified distances from dwelling-houses, and from water likely to be used for drinking or domestic purposes, and in such a manner and in such a position as to afford ready means of access for the purpose of cleansing them out, and to admit of their contents being removed without being carried through dwelling-houses. They prescribe the materials of which the cesspools may be constructed; require them to be arched or otherwise properly covered over, and provided with adequate means of ventilation; and prohibit any communication from them by drain or otherwise with any sewer.

IV. WATER SUPPLY

Restrictions on water supply by sanitary authorities.

In consequence of the privileges which have been granted by Parliament to companies and other corporate bodies, and the omission from the Public Health Act, 1875, of any provisions enabling a sanitary authority to acquire the right to abstract water from a running stream otherwise than by agreement, the powers of sanitary authorities under the general law in connection with water supply are in many districts more restricted than those which they possess for the purposes of sewerage, drainage, and sewage disposal. The result has been that whereas it seldom happens that sanitary authorities have any real need to resort to special legislation to enable them to carry out their sewerage schemes, there are every year a certain number of cases in which they are obliged to obtain local Acts for the purposes of their water undertakings.

Where a company has Parliamentary powers to supply (Public Health Act, 1875, Sec. 52).

When a water company[1] has obtained from Parliament the right to supply water to the inhabitants of any area, a sanitary authority, before commencing to supply water within that area, is required by Section 52 of the Public Health Act, 1875, to give written notice to the company stating the purposes for which, and (as far as may be practicable) the extent to which, it requires water; and it may not construct any waterworks within that area if, and so long as, the company is able and willing to supply water proper and sufficient for all reasonable purposes for which it is required by the sanitary authority.

[1] 'Water company' is defined by Section 4 of the Act as meaning any person or body of persons, corporate or unincorporate, supplying, or who may hereafter supply, water for his or their own profit. This definition includes sanitary authorities supplying water beyond their own districts. See *Wolverhampton Corporation* v. *Bilston Improvement Commissioners*, L. R. 1 Ch. 315.

Any difference as to whether the water which the company is able and willing to lay on is proper and sufficient for the purposes for which it is required, or whether the purposes for which it is required are reasonable, or (if and so far as the charges of the company are not regulated by Parliament) as to the terms of supply, must be settled by arbitration.

Experience has proved that this section is practically an insuperable bar to the supply of water by a sanitary authority in an area over which a company possesses Parliamentary powers and in which it is desirous of retaining the supply in its own hands.

Where the supply must be taken from a running stream (Sec. 332).

Section 332 of the Public Health Act provides that nothing in that Act contained shall be construed to authorise any sanitary authority to injuriously affect any reservoir, canal, river, or stream, or the feeders thereof, or the supply, quality, or fall of water contained therein, in cases where any body of persons, or person, would, if the Act had not passed, have been entitled by law to prevent, or be relieved against, the injuriously affecting such reservoir, canal, river, stream, feeders, or such supply, quality, or fall of water, unless the sanitary authority first obtain the consent in writing of the body of persons, or person, so entitled as aforesaid.

Notwithstanding this section, it was at one time considered by the Local Government Board that as the definition of 'lands' in the Act includes easements, a sanitary authority might, under Section 176 of the Act, to which reference has already been made,[1] obtain a provisional order which would give them the power of acquiring compulsorily the right of abstracting water from a running stream. As a matter of fact, more than one such order was obtained and confirmed by Parliament. But in the year 1877 a Committee of the House of Lords, when considering an order of this kind, decided that it was *ultra vires*; and the law officers, on being consulted by the Local Government Board, gave it as their opinion that the Board had no power to issue these orders. (See the Report of the Select Committee of the House of Commons on the Public Health Act, 1875, Amendment Bill, 1878, Parliamentary Paper, 1878, No. 134, p. iii.) Consequently, since that time sanitary authorities have had to provide local Acts whenever they have required to purchase compulsorily any water rights which come within the terms of Section 332.

Powers of sanitary authorities for supplying their districts with water (Sec. 51).

Where a sanitary authority are not hampered by either of the foregoing restrictions, they may in an urban district provide the district, or any part thereof, and in a rural district provide the district or any contributory place[2] therein, or any part of such contributory place, with a supply of water proper and sufficient for public and private purposes, and for these purposes or any of them may—

(1) Construct and maintain waterworks,[3] dig wells, and do any necessary acts; and

(2) Take on lease or hire any waterworks, and (with the sanction of the Local Government Board) purchase any waterworks, or any water or right to take or convey water, either within or without their district, and any rights, powers, and privileges of any water company; and

[1] See p. 25. [2] As to what constitutes a contributory place, see p. 28.

[3] 'Waterworks' includes streams, springs, wells, pumps, reservoirs, cisterns, tanks, aqueducts, cuts, sluices, mains, pipes, culverts, engines, and all machinery, lands, buildings, and things for supplying, or used for supplying water; also the stock-in-trade of any water company (Section 4).

(3) Contract with any person [1] for a supply of water.

Taking the foregoing powers in the above order, the first to be considered are the powers of sanitary authorities with respect to the construction and maintenance of waterworks and the digging of wells.

Powers as to the construction and maintenance of waterworks (Sec. 51).

For these purposes a sanitary authority has the same powers with respect to the acquisition of lands and easements and the borrowing of money as it has for the purposes of sewerage and sewage disposal.[2] In connection, however, with the digging of wells, regard must be had to the law relating to the rights of landowners to subterranean water. The leading cases on which this law is based are referred to in the footnote [3] below. Speaking generally, their effect is that if a stream runs underground in a known and defined channel, it must not be interfered with; but if it does not flow in such a channel, the sanitary authority, if they acquire the site of the well, may draw whatever water they can therefrom, although by so doing they drain their neighbours' lands and cause other wells to run dry.

Reservoirs containing more than 100,000 gallons (Sec. 53).

Restrictions are imposed by the Act on the construction by the sanitary authority of reservoirs, other than service reservoirs or tanks, which will not hold more than 100,000 gallons. At least two months before commencing to construct under the Act any reservoir which will contain more than this amount of water, the sanitary authority is required to give notice of the intended work by advertisement in one or more of the local papers circulated within the district where the reservoir is to be constructed.

If any person who would be affected by the intended work objects to such work, and serves notice in writing of such objection on the sanitary authority at any time within the said two months, the work may not be commenced without the sanction of the Local Government Board after such inquiry as is hereinafter mentioned, unless such objection is withdrawn.

The Local Government Board may, on application of the sanitary authority, appoint an inspector to make inquiry on the spot into the propriety of the intended work, and into the objections thereto, and to report to them on the matters with respect to which such inquiry was directed; and on receiving the report of such inspector, they may make an order disallowing or allowing, with such modifications (if any) as they may deem necessary, the intended work.

Security of reservoirs (Waterworks Clauses Act, 1847, Secs. 3 to 11).

Provision is made with respect to the security of reservoirs when constructed by a sanitary authority in Sections 3 to 11 of the Waterworks Clauses Act, 1863, which are incorporated with the Public Health Act, 1875, by Section 57 of the latter Act. The incorporated provisions enable any two justices to intervene, either at their own instance, or on the complaint of any person interested, when they are satisfied that the reservoir is in a dangerous state. In any such case they may make and enforce the necessary orders for removing the cause of complaint.

Where a sanitary authority supply water within their district, they

[1] 'Person' includes any body of persons, whether corporate or unincorporate.

[2] See pp. 25 and 27.

[3] *Chasemore* v. *Richards*, 7 H. L. C. 349; 29 L. J. Ex. 81. *Grand Junction Canal Company* v. *Shuger*, L. R. 6 Ch. App. 483; 24 L. T. (N.S.) 402; 19 W. R. 569. *Dudden* v. *Clutton Union*, 1 H. & N. 627; 26 L. J. Ex. 146. *Holker* v. *Porritt*, L. R. 8 Ex. 107; 10 *ib.* 59; 42 L. J. Ex. 85; 44 *ib.* 52; 21 W. R. 414; 23 *ib.* 400; 33 L. T. (N.S.) 125. *New River Company* v. *Johnson*, 2 E. & E. 435; 29 L. J. M. C. 93; 8 W. R. 179. *R.* v. *Metropolitan Board of Works*, 3 B. & S. 710; 32 L. T. Q. B. 105; 11 W. R. 492; 9 Jur. W. S. 1009.

Powers of carrying mains (Sec. 54).

have the same powers and are under the same restrictions for carrying water-mains within and without their district as they have[1] and are subject to for carrying sewers within or without their district by the law for the time being in force.

Breaking up of streets (Waterworks Clauses Act, 1847, Secs. 28 to 34).

In connection with this power, it should be stated that Section 57 of the Act incorporates, *inter alia*, the provisions of the Waterworks Clauses Act, 1847, with respect (where the sanitary authority have not the control of the streets) to the breaking up of streets for the purpose of laying pipes. These provisions, which, it is to be observed, will only apply in the case of an urban sanitary authority, or of a rural sanitary authority having the powers of a highway board when the pipes are laid outside its district, provide that the streets may not be broken up until after notice given to the persons who have the control of them, and in accordance, if such persons require, with a plan approved by them, or determined, in default of agreement, by two justices, and under the superintendence of such persons or their officer if they or he attend for the purpose. They also provide for the reinstating of the streets with as little delay as possible.

Public cisterns, pumps, &c. (Public Health Act, 1875, Sec. 64).

All existing public cisterns, pumps, wells, reservoirs, conduits, aqueducts, and works used for the gratuitous supply of water to the inhabitants of the district of any sanitary authority, vest in and are under the control of such authority, and such authority may cause the same to be maintained and plentifully supplied with pure and wholesome water, and may substitute, maintain, and plentifully supply with pure and wholesome water other such works equally convenient; they may also (subject to the provisions of the Act) construct any other such works for supplying water for the gratuitous use of the inhabitants who choose to carry the same away, not for sale, but for their own private use.

Powers of water company to supply water or to sell or lease waterworks to sanitary authority (Sec. 63).

Any water company[1] may contract to supply water, or may lease their waterworks[2] to any sanitary authority; and the directors of any water company, in pursuance, in the case of a company registered under the Companies Act, 1862, of a special resolution of the members passed in manner provided by that Act, and in the case of any other company of a resolution passed by three-fourths in number and value of the members present, either personally or by proxy, at a meeting specially convened, with notice of the business to be transacted, may sell and transfer to any sanitary authority, on such terms as may be agreed upon, all the rights, powers, and privileges, and all or any of the waterworks, premises, or other property of the company, but subject to all liabilities to which the same are subject at the time of such purchase.

Powers of limited owners to supply water to the sanitary authority (Limited Owners' Reservoirs and Water Supply Further Facilities Act, 1877, Sec. 6).

By the Limited Owners' Reservoirs and Water Supply Further Facilities Act, 1877, power is given to landowners with limited interests, who charge their estates with the cost of the construction of waterworks, to enter into agreements, subject to the approval of the Board of Agriculture, for the supply of water to sanitary authorities for any term not exceeding the number of years during which the cost of the construction of the waterworks, or any part of such cost, is made a charge upon their estates.

[1] As to these powers and restrictions, see pp. 19 and 20.

[2] As to the definitions of 'water company' and 'waterworks' see pp. 35 and 36. It is to be observed that this section only confers powers on the company, and that the power of the sanitary authority to purchase will be subject to the sanction of the Local Government Board (see p. 36).

Powers of sanitary authority to supply water to authority of adjoining district (Public Health Act, 1875, Sec. 61).

It is sometimes convenient for the sanitary authority of one district to obtain water from the sanitary authority of an adjoining district. Section 61 of the Public Health Act, 1875, enables the supply in such a case to be given, with the sanction of the Local Government Board, on such terms as may be agreed on between the authorities, or as, in case of dispute, may be settled by arbitration in manner provided by the Act.

Water supplied to be pure and wholesome (Sec. 55).

Sanitary authorities are required to provide and keep in any waterworks constructed or purchased by them a supply of pure and wholesome water; and where they lay any pipes for the supply of any of the inhabitants of their districts the water may be constantly laid on at such pressure as will carry the same to the top story of the highest dwelling-house within the district or part of the district supplied. They are, however, placed under no obligation to provide a constant supply under pressure.

Power to charge water rates and rents (Sec. 56).

Where a sanitary authority supply water to any premises they may charge in respect of such supply a water rate to be assessed on the net annual value of the premises, ascertained in the same manner as for the purposes of a general district rate. They may, moreover, enter into agreements for supplying water on such terms as may be agreed on between them and the persons receiving the supply, and they have the same powers for recovering water rents or other payments accruing under these agreements as they have for recovering water rates.

In what cases this power must be exercised (Public Health (Water) Act, 1878, Sec. 10).

Section 10 of the Public Health (Water) Act, 1878, has made it incumbent upon any sanitary authority supplying water in any urban district or in any contributory place in a rural district to exercise these powers in respect of all water so supplied by them, if an application is made to them to do so by ten persons rated to the relief of the poor in the urban district, or by five persons so rated in the contributory place.

Rating for water supply by stand-pipes (Sec. 9).

Section 9 of the same Act enables rural sanitary authorities, where they have provided a stand-pipe or stand-pipes for the supply of water to any part of their district, to recover water rates or water rents from the owner or occupier of every dwelling-house within 200 feet from such stand-pipe in the same manner in all respects as if the supply had been given on the premises. Provided that if any such dwelling-house has within a reasonable distance and from other sources a supply of wholesome water sufficient for the consumption and use of the inmates of the house, no water rate or water rent may be recovered from the owner or occupier of the house, unless and until the water supplied by the authority by means of such stand-pipes is used by the inmates of the house.

Payment and recovery of the water rates and rents (Public Health Act, 1875, Sec. 57; Waterworks Clauses Act, 1847, Secs. 68 to 94).

The provisions of the Waterworks Clauses Act, 1847, with respect to the payment and recovery of the water rates and rents are incorporated with the Public Health Act by Section 57 of that Act. Under these provisions the water rates are payable quarterly in advance, and, where the house or other separate tenement supplied is of less annual value than 10*l*., are payable to the sanitary authority by the owner.

Power to supply water by meter (Public Health Act, 1875, Secs. 58 to 60).

Where a sanitary authority choose to do so, they may agree with any person to supply him with water by meter. This power is, however, but seldom used where the supply is given for domestic purposes. It is obviously undesirable on sanitary grounds to offer inducements

to consumers to use less water than they require for household purposes.

Supply for public baths or trading or manufacturing purposes (Sec. 65).

Any sanitary authority may, if they think fit, supply water to any public baths or washhouses, or for trading or manufacturing purposes, on such terms and conditions as may be agreed on between them and the persons desirous of being so supplied; and may if they think fit construct any waterworks for the gratuitous supply of any public baths or washhouses established for private profit or supported out of any poor or borough rates.

Protection of water (Public Health Act, 1875, Secs. 68 and 69; Waterworks Clauses Act, 1847, Secs. 61 to 67).

Rivers Pollution Prevention Act, 1876 (Sec. 8). Public Health Acts Amendment Act, 1890 (Sec. 47).

Special provisions are contained in the Public Health Act, and the incorporated sections of the Waterworks Clauses Act, 1847, imposing penalties on the wasting of water, and enabling sanitary authorities to take proceedings against persons offending against these provisions. Independently of these provisions every sanitary authority may enforce the provisions of the Rivers Pollution Prevention Act, 1876, in relation to any stream being within or passing through or by any part of their district. They may also, in districts in which Part III. of the Public Health Acts Amendment Act, 1890, has been adopted, take proceedings against persons who disregard the prohibition contained in Section 47 of that Act, and who throw or place, or suffer to be thrown or placed, into or in any river, stream, or watercourse within the district any cinders, ashes, bricks, stone, rubbish, dust, filth, or other matter which is likely to cause annoyance. Any such offender is liable to a penalty not exceeding 40*s*., which may be recovered summarily. This is a very useful and effective remedy, capable of being promptly enforced. If prosecutions under this section were more frequent than they are, they would probably go far towards removing the very prevalent belief that a watercourse may properly be used as the readiest means of getting rid of filth and rubbish.

Waste or misuse of water by consumers (Waterworks Clauses Act, 1847, Secs. 54 to 60; Waterworks Clauses Act, 1863, Secs. 16 to 20).

The sections of the Waterworks Clauses Acts, 1847 and 1863, which are incorporated with the Public Health Act, 1875, give sanitary authorities ample powers of proceeding against consumers who waste or misuse the water supplied to them under the Act.

Communication pipes to be laid by the inhabitants (Waterworks Clauses Act, 1847, Secs. 48–53).

So far we have dealt with the powers and duties of the sanitary authority in connection with the provision of a water supply, and the recovery of charges from the water consumers. As a general rule, when the water is provided, the general public are only too willing to avail themselves of it, and to pay the necessary water rates or water rents. For the purpose of enabling them to obtain the supply, the provisions of the Waterworks Clauses Act, 1847, with respect to the communication pipes to be laid by the inhabitants are incorporated with the Public Health Act, 1875. They enable the inhabitants, on giving fourteen days' notice to the sanitary authority, to lay service pipes from their premises to the mains, after obtaining the consent of the owners or occupiers, if any, of any lands intervening between the premises and the water mains, and, after two days' notice to the sanitary authority, to make the necessary communication between their pipes and the mains under the superintendence and according to the directions of the surveyor or other officer of the sanitary authority, if he sees fit to attend. For this purpose the pavement may be broken up, but must be reinstated at the cost of the persons laying the communication pipes.

There are, however, not unfrequently, cases in which, when a wholesome public supply has been provided at a considerable expense,

either by the sanitary authority or by a water company, some of the inhabitants are so misguided as to continue to take their water from the old polluted sources on which they were necessarily dependent prior to the introduction of a proper supply, in preference to having recourse to the water of the sanitary authority or the water company. In such cases it will usually be well for the sanitary authority to consider in the first instance whether they cannot usefully take proceedings for preventing the use of the polluted water under Section 70 of the Public Health Act, which provides that on the representation of any person to any sanitary authority that within their district the water in any well, tank or cistern, public or private, or supplied from any public pump, and used or likely to be used by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, is so polluted as to be injurious to health, such authority may apply to a court of summary jurisdiction for an order to remedy the same; and thereupon such court shall summon the owner [1] or occupier of the premises to which the well, tank, or cistern belongs, if it be private; and in the case of a public well, tank, cistern, or pump, any person alleged in the application to be interested in the same, and may either dismiss the application or may make an order directing the well, tank, cistern, or pump to be permanently or temporarily closed, or the water to be used for certain purposes[2] only, or such other order as may appear to them to be requisite to prevent injury to the health of persons drinking the water.

Power to close polluted wells &c. Public Health Act, 1875 (Sec. 70).

The court may, if they see fit, cause the water complained of to be analysed at the cost of the sanitary authority applying to them under this section.

If the person on whom an order under this section is made fails to comply with the same, the court may, on the application of the sanitary authority, authorise them to do whatever may be necessary in the execution of the order, and any expenses incurred by them may be recovered in a summary manner from the person on whom the order is made.

Expenses incurred by any rural sanitary authority under this section, and not recovered by them, will be special expenses.[3]

Whether or not proceedings have just been taken under the last quoted section, it is the duty of every sanitary authority, when on the report of their surveyor it appears to them that any house within their district is without a proper supply of water, and that such a supply can be furnished thereto at a cost not exceeding a limit prescribed by the Act, to give notice in writing to the owner [1] requiring him, within a time therein specified, to obtain such supply, and to do all such works as may be necessary for that purpose.

Power of sanitary authority to require houses to be supplied with water in certain cases (Sec. 62).

If such notice is not complied with within the time specified, the sanitary authority may, if they think fit, do such works and obtain such supply, and for that purpose may enter into any contract with any water company [4] supplying water within their district; and water rates may be made and levied on the premises by the authority or company which furnishes the supply, and may be recovered as if the

[1] For the definition of 'owner,' see note 2 on page 19.

[2] It will usually be difficult to insure that an order under which the water may be used for certain purposes only shall be obeyed. If the water is really dangerous, the only safe course to take is to require the well to be closed.

[3] As to the incidence of charge of special expenses, see p. 29.

[4] For the definition of 'water company,' see p. 35.

owner or occupier of the premises had demanded a supply of water and were willing to pay water rates for the same; and any expenses incurred by the sanitary authority in doing any such works may be recovered in a summary manner from the owner of the premises, or may, by order of the sanitary authority, be declared to be private improvement expenses.[1]

Limit of cost within which owner may be required to provide a supply (Sec. 62).

It will be observed that under this enactment an owner can only be required by the sanitary authority to obtain a supply of water for any house belonging to him when the water can be furnished thereto at a cost not exceeding a prescribed limit. This limit, where there is no local Act in force in the district authorising a water rate, is the water rate authorised by the local Act. Consequently, if the district is supplied with water by any company or sanitary authority under a local Act, as such Act almost invariably authorises certain specified water rates, there is seldom any difficulty in enforcing a supply under this section[2] if the water mains are laid in the street adjoining the house. In cases where there is no water rate authorised by any local Act, the limit is defined by the section as being twopence a week, or such other cost as the Local Government Board may, on the application of the sanitary authority, determine under all the circumstances of the case to be reasonable. This provision evidently contemplated that the Local Government Board should go into the question of the reasonableness of the charge for the supply in each individual case. But this need now no longer be done, for Section 8 of the Public Health (Water) Act, 1878, has provided that where application is made to that Board under Section 62 of the Public Health Act, 1875, to determine what is a reasonable cost within the meaning of that section, the Board may for that purpose fix by order a general scale of charges for the whole or any part of the district of the sanitary authority, and that the cost of the supply of water to any house within the area specified in the order shall be deemed to be a reasonable cost within the meaning of the section if it does not exceed the cost authorised by such special scale of charges. By this means the Board can practically place the sanitary authority in the same position with regard to the enforcement of Section 62 of the Public Health Act, 1875, as the authority would be in if a water rate were authorised in the district by a local Act. Where water mains, therefore, are laid in any street, the sanitary authority need have no difficulty in requiring any owner to provide his houses in that street with water, if such houses are without a proper supply.

Public Health (Water) Act, 1878 (Sec. 8).

Cases in which Sec. 62 is inapplicable.

Where, however, there is no such supply available, and a supply can only be obtained by sinking a well, or constructing a storage cistern for rain water, or carrying out other structural works on the premises, involving not merely the payment of a water rate or other periodical

[1] As to the effect of declaring expenses to be private improvement expenses, see note 1 on page 22.

[2] Where water mains are not laid in any street it will be for the sanitary authority to consider, supposing that the district is within the limits of supply of any water company to which the Waterworks Clauses Act, 1847, is applicable, whether it is desirable to take action to require the company to bring their mains to the street. The company must, under Section 35 of that Act, cause their mains to be laid down and brought to any part of the district within their limits of supply on receiving a guarantee that the aggregate amount of the water rates paid to them annually shall not be less than one-tenth of the expense of providing and laying down the mains. Sanitary authorities not unfrequently give a guarantee to a water company to pay so much of this proportion of the expenses as is not covered by the water rates.

charge, but the expenditure of a capital sum, Section 62 is practically useless. In such a case in a rural district, the sanitary authority must proceed under the more elaborate provisions of the Public Health (Water) Act, 1878, which were specially designed for dealing with isolated houses in localities where public water supplies are neither feasible nor desirable, and where the obligation of providing a supply should rest with the owner and not with the sanitary authority, except in cases where the owner has failed to perform his duty.

Relative obligations of sanitary authorities and owners as regards water supply.

It may be well here to explain what, under the Public Health Acts, are the relative obligations of sanitary authorities and owners as regards the provision of a water supply for the houses in any district. It is the duty of the sanitary authority to provide their district with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost. If a sanitary authority neglect to perform this duty, the same proceedings can be taken to make them perform it under Section 299 of the Public Health Act, 1875, or if they are a rural district council, under Sections 16 and 19 of the Local Government Act, 1894, as can be taken in the case of their failing to provide their district with sufficient sewers.[1] But where the houses in a district are so scattered that it is impossible for the sanitary authority to furnish them with a public water supply at a reasonable cost, it becomes their duty, instead of furnishing the supply themselves at the cost of the rates, to require each owner to provide his houses with a proper supply, if he can do so at a reasonable cost. If neither the sanitary authority nor the owner can provide the water at a reasonable cost, then, if the absence of a proper water supply creates so great a nuisance that the house is unfit for human habitation, proceedings[2] should be taken for obtaining a justice's order prohibiting its being used for human habitation.

Public Health Act, 1875 (Sec. 299). Local Government Act, 1894 (Secs. 16 and 19).

Urban sanitary authorities may be invested with powers of rural sanitary authorities under Public Health (Water) Act, 1878 (Public Health (Water) Act, 1878, Sec. 11).

It will very rarely happen in an urban district that the circumstances of the locality are such as to render it inexpedient for the sanitary authority to themselves provide a water supply for the inhabitants, assuming that the district is not within the limits of supply of a water company, or of some other local authority, authorised to supply it with water. But to meet such cases, the Local Government Board are empowered, if they think fit, by order to invest any urban sanitary authority with all or any of the powers and duties which are by the Public Health (Water) Act, 1878, given to a rural sanitary authority, and such investment may be made either unconditionally or subject to any conditions to be specified by the Board as to the time, portion of the district, or manner during at or in which such powers and duties are to be exercised.

Periodical inspections of water supply (Sec. 7).

Under the last-mentioned Act it is the duty of every rural sanitary authority from time to time to take such steps as may be necessary to ascertain the condition of the water supply within their district, and the authority are empowered to pay all reasonable costs and expenses incurred by them for the purpose of taking such steps. The authority, or any of their officers, or any person duly authorised in writing for that purpose by the authority, if they or he have or has reasonable ground for believing that any occupied dwelling-house within the district is without a proper supply of wholesome water, sufficient for the consumption and use for domestic purposes of the inmates of such

[1] See above, pp. 15 and 16.

[2] See pp. 64 and 89.

house, has the right of entry into the premises for which such supply is required, for the purpose of ascertaining whether or not the house has such a supply within a reasonable distance. For the purposes of any such admission, Sections 102 and 103[1] of the Public Health Act, 1875, will apply in the same manner as if such entry were necessary for the purpose of examining as to the existence of any nuisance on the premises, and the person so authorised as aforesaid were an officer of the rural sanitary authority.

Duty of rural sanitary authority to provide or require provision of sufficient water supply, and procedure for enforcing such requirements (Sec. 3).

The Act also provides that it shall be the duty of every rural sanitary authority, regard being had to the provisions contained in the Act, to see that every occupied dwelling-house within their district has, within a reasonable distance, an available supply of wholesome water sufficient for the consumption and use for domestic purposes of the inmates.

Where it appears to a rural sanitary authority, on the report of their inspector of nuisances or medical officer of health, that any occupied dwelling-house within their district has not such a supply within a reasonable distance, and the authority are of opinion that such supply can be obtained at a reasonable cost not exceeding a capital sum the interest on which, at the rate of 5*l.* per cent. per annum, would amount to twopence a week, or at such other cost, not exceeding a capital sum the interest on which, at the rate of 5*l.* per cent. per annum, would amount to threepence per week, as the Local Government Board may, on the application of the authority, determine under all the circumstances of the case to be reasonable, and that the expense of providing the supply ought to be paid by the owner or defrayed as private improvement expenses,[2] proceedings may be taken as follows:

(1) The authority may serve on the owner of the house a notice requiring him, within a time specified in the notice, and not exceeding six months from the date of the service thereof, to provide such supply, and to do all such works as may be necessary for that purpose.

(2) If at the expiration of the time so specified the notice is not complied with, they may serve on the owner a second notice informing him that if the requirements of the first notice are not complied with within one month from the date of the service of the second notice, they will themselves provide such supply, and that the expense of providing the supply will in that case be payable by the owner or as a private improvement expense.

(3) If at the expiration of one month from the date of the service of the second notice the requirements of the first notice are not complied with, the authority may, subject as in the Act is mentioned, themselves provide the supply, and for that purpose they may enter upon the premises and execute all such works as appear to them necessary for obtaining a supply of water for the house, and for the purposes of such entry Sections 102 and 103 of the Public Health Act, 1875, will apply until the works are completed, in the same manner as if an order of a court of summary jurisdiction had been made for the abatement of a nuisance on the premises and that order had not been complied with.

(4) Any expenses incurred by the authority in providing such

[1] As to these sections, see pp. 65 and 66.

[2] As to the incidence of charge of private improvement expenses, see note 1 on page 22.

supply and doing such works may, when the supply has been provided, be recovered in a summary manner from the owner of the house, or may, at the option of the authority, be declared, by their order, to be private improvement expenses.

(5) Where the owners of two or more houses have failed to comply with the requirements of the notices served on them under this section, and the authority might, under the Act, execute the necessary works for providing a water supply for each house, the authority may, if it appears to them desirable, and no greater expense would be occasioned thereby, execute works for the joint supply of water to the houses, and apportion the expenses as they deem just.

Appeal by owner against requirement to provide water supply (Sec. 4).

The authority may, on cause being shown to their satisfaction why the requirements of a notice served by them under this section should not be complied with, withdraw the notice or modify the requirements thereof.

Nothing in this section is, however, to be deemed to relieve the authority from the duty imposed upon them by the Public Health Act, 1875, of providing their district or any contributory place or part of a contributory place therein with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, and a general scheme of supply is required, and such supply can be got at a reasonable cost.

Where an owner of a house has been required by the notice of a rural sanitary authority to provide a supply of water for his house, and objects to such requirement on any of the following grounds ; that is to say :

(1) That the supply is not required ; or,

(2) That the time limited by the notice for providing the supply is insufficient ; or,

(3) That it is impracticable to provide the supply at a reasonable cost ; or,

(4) That the authority ought themselves to provide a supply of water for the district or contributory place in which the house is situate, or to render the existing supply of water wholesome ; or,

(5) That the whole or part of the expense of providing the supply, or of rendering the existing supply wholesome, ought to be a charge on the district or contributory place ;

he may, within twenty-one days after service on him of the second notice, address a memorial to the authority stating his objections, and in that case the authority may not proceed with the execution of the works which they might otherwise execute under the Act until they have been authorised to execute the same by a court of summary jurisdiction or by the Local Government Board in manner hereinafter provided.

If the objections stated in the memorial do not include either the fourth or fifth of the above-mentioned grounds, the authority may apply to a court of summary jurisdiction for an order authorising them to proceed with the works, and thereupon the court must summon the owner, and, if satisfied on hearing the case that the objections are not well founded, must make an order authorising the authority to proceed with the works in the event of their not being executed by the owner within a time limited in the order.

If the objections stated in the memorial are, or include, the fourth or fifth of the above-mentioned grounds, or either of them, the authority

must forward a copy of the memorial to the Local Government Board, who may either cancel the requirement of the authority, or confirm the same with or without modifications.

If the Local Government Board confirm the requirement, they must issue an order authorising the authority, subject to such modifications, if any, as they prescribe, to execute the works in the event of their not being executed by the owner within a time limited by the order. Any such order may, if the Local Government Board think it equitable so to do, apportion the expense of providing the supply between the owner of the house and the authority of the district comprising the contributory place in which the house is situate, or between the owner and any other person.

If the Local Government Board cancel the requirement on the grounds that the authority ought themselves to provide a supply of water for the district or contributory place in which the house is situate, or to render the existing supply wholesome, the memorial will be deemed to have been a complaint of default made to the Local Government Board against the authority under Section 299 of the Public Health Act, 1875.

Appeal against apportionment of expenses (Sec. 5)

When the expenses of providing a joint supply of water to two or more houses are apportioned under the Act by a rural sanitary authority among the owners of the several houses, notice of such apportionment must be forthwith given to each of such owners; and if any owner objects to the apportionment as unjust, he may, within twenty-one days after service on him of notice thereof, apply to a justice; and thereupon the justice may summon the authority, and also the other owners, to show cause why the apportionment should not be varied; and the court may either dismiss the application or make such order varying the apportionment as to the court may appear reasonable.

Houses in rural districts not to be erected or rebuilt without sufficient supply (Sec. 6).

The above provisions embody the best machinery which Parliament has been able to devise for requiring owners to provide inhabited houses with a proper supply of water. But, as has been seen, this supply can only be insisted on where the water can be obtained at a reasonable cost. As, however, it is manifestly improper that houses should be built in situations where they cannot be provided with water, the Act has prohibited the owner in any rural district of any dwelling-house erected since July 4, 1878, or pulled down to or below the ground floor and rebuilt after that date, from occupying the same, or causing or permitting it to be occupied, unless and until he has obtained from the sanitary authority of the district a certificate that there is provided within a reasonable distance from the house such an available supply of wholesome water as may appear to such authority, on the report of their inspector of nuisances or their medical officer of health, to be sufficient for the consumption and use for domestic purposes of the inmates of the house.

If the sanitary authority refuse to grant such certificate, the owner may apply to a court of summary jurisdiction for an order authorising the occupation of the house notwithstanding the refusal of the certificate, and thereupon the court must summon the authority, and if, after hearing the case, it is of opinion that the certificate ought to have been granted, it may make an order authorising the occupation of the house.

Any owner who occupies a house or causes or permits it to be occupied in contravention of this section will be liable on conviction

by a court of summary jurisdiction to a penalty not exceeding ten pounds.

Incidence of charge of expenses of water supply incurred by sanitary authorities.

As has been seen, in certain cases the owners may be required to defray the cost of water supply to their houses, and in others the occupiers may be called upon to pay water rates and rents. It occasionally happens that the water rates and rents not only cover the expenses of the sanitary authority in respect of their waterworks, but also leave a profit applicable for the benefit of the ratepayers. It is not, however, as a general rule desirable that a sanitary authority should seek to make any considerable profit from their waterworks undertaking. The most equitable plan usually to adopt is to regulate the charges for water in such a manner that the water revenue shall as nearly as possible cover the expenditure. Where there is any deficiency in the water revenue, such deficiency has to be made good alike in urban and rural districts, out of the same funds and rates[1] as those on which the expenses of sanitary authorities in providing public works of sewerage and sewage disposal have to be charged.

Powers of parish council in relation to water supply (Local Government Act, 1894, Sec. 8 (1) (*e*)).

It may be convenient here to mention that Section 8 (1) (*e*) of the Local Government Act, 1894, empowers a parish council to utilise any well, spring, or stream within their parish, and to provide facilities for obtaining water therefrom, but so as not to interfere with the rights of any corporation or person; but that these powers will in no way derogate from the obligations of a rural sanitary authority with respect to the supply of water.

V. PRIVIES, WATER-CLOSETS, &c.

Law relating to this matter contained partly in statutory enactments and partly in bye-laws.

The law relating to these conveniences resembles that relating to the drainage of houses in this respect, that the greater part of it is contained in statutory enactments, while the remainder, which is applicable only to urban sanitary districts and to those rural sanitary districts or contributory places to which it has been specially applied by order of the Local Government Board, is for the most part only in force in districts where the sanitary authority have embodied it in bye-laws made under Section 157 of the Public Health Act, 1875, as extended by Section 23 of the Public Health Acts Amendment Act, 1890.

Penalty on building or rebuilding houses without privy accommodation (Public Health Act, 1875 Sec. 35).

No new house[2] may be erected, and no house pulled down to or below the ground floor may be rebuilt without a sufficient water-closet, earth closet,[3] or privy, and an ashpit[4] furnished with proper doors and coverings. Any person who causes any house to be erected or rebuilt in contravention of this enactment will be liable to a penalty not exceeding twenty pounds. It will be observed that this enactment does not require a separate water-closet, earth closet, or privy to be provided for each house; and that no penalty will therefore be recoverable under it if one[5] of these conveniences common to the use of two cottages is sufficient for the use of the occupiers of both.

[1] See pp. 28 to 30. [2] For the definition of 'house,' see note on p. 30.

[3] In the Public Health Act the term 'earth closet' includes any place for the reception and deodorisation of fæcal matter, constructed to the satisfaction of the sanitary authority. See Section 37 of that Act.

[4] Section 11 of the Public Health Acts Amendment Act, 1890, provides that the expression 'ashpit' in the Public Health Acts, and in that Act shall, for the purposes of the execution of those Acts, include any ash-tub or other receptacle for the deposit of ashes, fæcal matter or refuse.

[5] *Guardians of the Clutton Union* v. *Pointing*, L. R. 4 Q. B. D. 340; 48 L. J. M. C. 135; 40 L. T. (N.S.) 844; 43 J. P. 686. See also the proviso to the following section.

Power of sanitary authority to enforce provision of privy accommodation (Sec. 36).

If a house within the district of a sanitary authority appears to such authority by the report of their surveyor or inspector of nuisances to be without a sufficient water-closet, earth closet, or privy, and an ashpit furnished with proper doors and coverings, it is the duty of the sanitary authority by written notice to require the owner or occupier of the house, within a reasonable time therein specified, to provide a sufficient water-closet, earth closet, or privy, and an ashpit furnished as aforesaid, or either of them as the case may require.

If such notice is not complied with, the sanitary authority may, at the expiration of the time specified in the notice, do the work thereby required to be done, and recover the expenses incurred by them in so doing from the owner in a summary manner, or by order declare [1] the same to be private improvement expenses. Provided that where a water-closet, earth closet, or privy has been and is used in common by the inmates of two or more houses, or if in the opinion of the sanitary authority a water-closet, earth closet, or privy may be so used, they need not require the same to be provided for each house.

These provisions apply to all houses alike, in urban or rural sanitary districts, and whether built before or after the passing of the Public Health Act. They are so worded as to leave it to the sanitary authority in the first instance to determine, on the report of their officer, whether the water-closet &c. is sufficient. It would appear from the case[2] of *Reg.* v. *the Sherborne Local Board* that the courts will be unwilling to review the judgment which a sanitary authority may thus arrive at; and that if the authority on the report of the officer come to the conclusion that a water-closet is insufficient—e.g., in consequence of the absence of a proper flushing apparatus—the authority may require the necessary works to be carried out, although there may be no proof that a nuisance[3] has actually arisen in consequence of their not having been provided, it being sufficient in such a case if the lack of the apparatus in question is likely to produce or cause a nuisance.

Neither of the foregoing sections enables the sanitary authority to require water to be laid on to the closet, or to require more than one water-closet &c. to be provided for a house which is let off in separate tenements. As will be seen below, however, every sanitary authority may now, by the adoption of Part III. of the Public Health Acts Amendment Act, 1890, obtain power to make bye-laws with respect to the keeping of water-closets supplied with sufficient water for flushing, and to require the provision of adequate accommodation in the shape of sanitary conveniences for workshops, manufactories, or other buildings where persons are employed or intended to be employed in any trade or business.

Sanitary conveniences in factories where persons of both sexes are employed (Sec. 38).

Section 38 of the Public Health Act, 1875, provides that a sanitary authority, when it appears to them by the report of their surveyor that any house is used or intended to be used as a factory or building in which persons of both sexes are employed or intended to be employed at one time in any manufacture, trade, or business, may, if they think fit, by written notice require the owner or occupier of the

[1] As to the effect of such a declaration, see p. 22.

[2] *Local Government Chronicle*, May 1, 1880, p. 355; *Times*, March 20, 1880; 46 J. P. 675.

[3] As to the procedure in cases where any water-closet, earth closet, privy, or ashpit is a nuisance or injurious to health, see below, pp. 61 to 68.

house, within the time therein specified, to construct a sufficient number of water-closets, earth closets, or privies and ashpits for the separate use of each sex. And any person who neglects or refuses to comply with any such notice will be liable to a penalty not exceeding 20*l.*, or to a further penalty not exceeding 40*s.* for every day during which the default is continued.

Same provisions applicable to parts of mines above ground in which women and girls are employed (Coal Mines Regulation Act, 1887, Sec. 74).

The provisions of this section have been extended by Section 74 of the Coal Mines Regulation Act, 1887, to the portions of a mine which are above ground and in which women and girls are employed.

Substituted provisions in urban sanitary districts where Part III. of the Public Health Acts Amendment Act, 1890, has been adopted.

The section is defective, in so far as it only extends to factories and buildings in which persons of both sexes are employed; whereas similar powers are often required in the cases of buildings in which large numbers of the same sex are employed. It has consequently been repealed in urban sanitary districts in which Part III. of the Public Health Acts Amendment Act, 1890, is in force, by Section 22 of that Act, which requires every building used as a workshop or manufactory, or where persons are employed or intended to be employed, in any trade or business, whether erected before or after the adoption of that part of the Act in any district, to be provided with sufficient and suitable accommodation in the way of sanitary conveniences, having regard to the number of persons employed in or in attendance at such building, and also where persons of both sexes are employed, or intended to be employed, or in attendance, with suitable accommodation for persons of each sex.

Where it appears to an urban sanitary authority, on the report of their surveyor, that the provisions of this section are not complied with in the case of any building, the authority may, if they think fit, by written notice, require the owner or occupier to make such alterations and additions therein as may be required to give the accommodation required; and any person who neglects or refuses to comply with such notice will be liable for each default to a penalty not exceeding 20*l.*, and to a daily penalty not exceeding 40*s.*

Special provisions as to earth closets (Public Health Act, Sec. 37).

Any enactment in force in the district of any sanitary authority requiring the construction of a water-closet will be deemed to be satisfied by the construction, with the approval of the sanitary authority, of an earth closet.

Any sanitary authority may, as respects any house in which an earth closet is in use, with their approval, dispense with the supply of water required by any contract or enactment to be furnished to any water-closet in such house, on such terms as may be agreed upon between such authority and the person providing or required to provide such supply of water. Moreover, any sanitary authority may themselves undertake, or contract with any person to undertake, a supply of dry earth or other deodorising substance to any house within their district, for the purpose of any earth closet.

Drains, water-closets, &c., to be properly kept (Sec. 40).

Every sanitary authority must provide that all drains, water-closets, privies, ashpits, and cesspools within their district are constructed and kept so as not to be a nuisance or injurious to health.[1]

Examination of drains, water-closets, &c., on complaint of nuisance (Sec. 41).

On the written application of any person to a sanitary authority, stating that any drain, water-closet, earth closet, privy, ashpit, or cesspool on or belonging to any premises within their district is a nuisance or injurious to health (but not otherwise), the sanitary authority may, by writing, empower their surveyor or inspector of nuisances, after

[1] As to the meaning of these words, see note 1 on p. 61.

twenty-four hours' written notice to the occupier of such premises, or in case of emergency without notice, to enter such premises, with or without assistants, and cause the ground to be opened, and examine such drain, water-closet, earth closet, privy, ashpit, or cesspool. If the drain, water-closet, earth closet, privy, ashpit, or cesspool on examination is found to be in a proper condition, he must cause the ground to be closed and any damage done to be made good as soon as can be, and the expenses of the work must be defrayed by the sanitary authority. If, however, on examination, it appear to be in bad condition, or to require alteration or amendment, the sanitary authority must forthwith cause notice in writing to be given to the owner or occupier of the premises, requiring him forthwith, or within a reasonable time therein specified, to do the necessary works; and if such notice is not complied with, the person to whom it is given will be liable to a penalty not exceeding ten shillings for every day during which he continues to make default; and the sanitary authority may, if they think fit, execute such works, and may recover in a summary manner from the owner the expenses incurred by them in so doing, or may by order declare[1] the same to be private improvement expenses.

It will be observed on reference to the provisions of the Act relating to nuisances (pages 61 to 68) that the definition of 'nuisance' includes any privy, cesspool, drain, or ashpit, so foul, or in such a state as to be a nuisance, or injurious to health. Consequently, any such nuisance may be dealt with under those provisions instead of under the above-quoted section. Moreover, as will be seen hereafter under the head of 'Scavenging and Cleansing' (pages 55 and 56), a sanitary authority may themselves undertake or contract for the cleansing of earth closets, privies, ashpits, and cesspools belonging to any premises; and where they do not themselves undertake or contract for such cleansing, they may make bye-laws imposing the duty on the occupier of any such premises. Cases may, however, notwithstanding these provisions, occasionally arise in which it will be desirable to proceed under Section 41. In any such case, it will be for the sanitary authority to determine the nature and extent of the work required; and it would seem that when proceedings are taken to recover penalties for non-compliance with the notices of the authority, the justices[1] have no power to review the determination of the authority. In ordinary cases the occupier,[2] and not the owner, is the person who is *primâ facie* liable for cleansing and repairing the drains of the premises in his occupation.

Extension of Sec. 41 of Public Health Act, 1875 (Public Health Acts Amendment Act, 1890, Sec. 19).

Section 19 of the Public Health Acts Amendment Act, 1890 (which, as has already been explained, is only in force in sanitary districts in which Part III. of that Act has been adopted), has extended the provisions of Section 41 of the Public Health Act, 1875, to cases in which 'two or more houses belonging to different owners are connected with a public sewer by a single private drain, and has enabled the sanitary authority to recover any expenses incurred by them in executing the works in such cases from the owners of the houses, in such shares and proportions as shall be settled by their surveyor, or, in the case of dispute, by a court of summary jurisdiction. For the purposes of this section the expression 'drain' includes a drain used

[1] *Hargreaves* v. *Taylor*, 32 L. J. M. C. 111; 8 L. T. (N.S.) 149; 9 Jur. (N.S.) 1053; 3 B. & S. 613.

[2] *Russell* v. *Shenton*, 11 L. J. Q. B. 289; 3 Q. B. 449; 6 Jur. 1083.

for the drainage of more than one building. This section was evidently intended to apply to cases where, under an objectionable system of drainage more in vogue in past years than at present, several houses are served by one drain. It only applies, however, in those cases when the houses belong to different owners. When, as may frequently happen, they belong to one owner, proceedings cannot be taken under the section, nor can they be taken under Section 41 of the Act of 1875, having regard to the definition of 'drain' in that Act (see page 15). In these cases, therefore, resort should be had to the nuisance provisions of the Act.

Sanitary conveniences used in common (Sec. 21).

Section 21 of the Public Health Acts Amendment Act, 1890, contains special provisions with reference to sanitary conveniences used in common by the occupiers of two or more separate dwelling-houses, or by other persons. It renders any person injuring or improperly fouling any such sanitary convenience, or anything used in connection therewith, liable for every such offence to a penalty not exceeding 10*s.*; and declares that if any such sanitary convenience or the approaches thereto, or the walls, floors, seats, or fittings thereof, is or are, in the opinion of the urban sanitary authority, or of the inspector of nuisances or medical officer of health of such authority, in such a state or condition as to be a nuisance or annoyance to any inhabitant of the district for want of the proper cleansing thereof, such of the persons having the use thereof in common as may be in default, or in the absence of proof satisfactory to the court as to which of the persons having the use thereof in common is in default, each of those persons shall be liable to a penalty not exceeding 10*s.*, and to a daily penalty not exceeding 5*s.*

Power of urban sanitary authority to provide public sanitary conveniences (Public Health Act, 1875, Sec. 39).

Any urban sanitary authority may, if they think fit, provide and maintain in proper and convenient situations, urinals, water-closets, earth closets, privies, and ashpits, and other similar conveniences for public accommodation. It will be necessary in the exercise of this power to be careful that the situation in which the convenience is placed is a proper one. Otherwise an injunction[1] may be obtained against its erection.

Powers of urban sanitary authorities with regard to the same when provided (Public Health Acts Amendment Act, 1890, Sec. 20).

Where an urban sanitary authority provide and maintain any of the above conveniences for public accommodation, they are empowered by Section 20 of the Public Health Acts Amendment Act, 1890 (if Part III. of that Act has been adopted for their district), to

(1) Make regulations with respect to the management thereof, and make bye-laws as to the decent conduct of persons using the same; (2) let the same from time to time for any term not exceeding three years, at such rent and subject to such conditions as they may think fit; and (3) charge such fees for the use of any water-closets provided by them as they may think proper.

Cases in which consent of the urban sanitary authority is required to the erection of sanitary conveniences.

The same section provides that no public sanitary convenience shall, after the adoption of that part of the Act, be erected in or accessible from any street without the consent in writing of the urban sanitary authority, who may give such consent upon such terms as to the use thereof or the removal thereof at any time, if required by the urban sanitary authority, as they may think fit; and that any

[1] *Sellors* v. *Matlock Bath Local Board*, L. R. 14 Q. B. D. 928; 52 L. T. (N.S.) 762. See also *Biddulph* v. *St. George's, Hanover Square*, 3 De G. J. & S. 493; 33 L. J. Ch. 411; 8 L. T. (N.S.) 44, 558; 9 Jur. (N.S.) 953; 11 W. R. 739; and *Vernon* v. *Vestry of St. James's, Westminster*, 42 L. T. (N.S.) 82; L. R. 16 Ch. D. 449; 50 L. J. Ch. 81; 44 L. T. (N.S.) 229; 29 W. R. 222.

person who erects a sanitary convenience in contravention of this enactment, and after a notice in writing to that effect from the urban sanitary authority, does not remove the same, shall be liable to a penalty not exceeding 5*l.*, and to a daily penalty not exceeding 20*s.* Nothing in this section is, however, to extend to any sanitary convenience now or hereafter to be erected by any railway company within their railway station, yard, or the approaches thereto.

Power of urban sanitary authorities to make bye-laws with respect to water-closets &c. (Public Health Act, 1875, Sec. 157).

By Section 157 of the Public Health Act, 1875, every urban sanitary authority was empowered to make bye-laws, *inter alia*, with respect to water-closets, earth closets, privies, and ashpits in connection with buildings. The general contents of this section, the buildings to which it extends, and the provisions of the Act relating to bye-laws have already been explained (pages 33 and 34) in connection with the powers of sanitary authorities to make bye-laws with respect to the drainage of buildings and to cesspools in connection with buildings.

Inclusion of these powers by Sec. 23 of the Public Health Acts Amendment Act, 1890.

It has also been shown how the last-mentioned powers have been extended by Section 23 of the Public Health Acts Amendment Act, 1890. Similar extensions have been made by the same section to the powers of sanitary authorities to make bye-laws with respect to water-closets, privies, and ashpits in connection with buildings. These bye-laws may, when Part III. of the Act has been adopted, be made so to affect buildings erected before the times mentioned in Section 157, and may be made by rural sanitary authorities as well as by urban sanitary authorities. And in addition to these powers, both classes of sanitary authorities may now, under Section 23 of the Act of 1890, make bye-laws for the keeping of water-closets supplied with sufficient water for flushing.

Model Bye-laws as to water-closets and earth closets in connection with buildings.

We shall now refer very briefly to the provisions of the Model Bye-laws of the Local Government Board, with respect to water-closets, earth closets, privies, and ashpits.

Water-closets.

These bye-laws require every water-closet or earth closet which is constructed in a building to be constructed in such a position that one of its sides at least shall be an external wall; and to be provided with a window of not less dimensions than two feet by one foot, opening directly into the external air, and with other adequate means of ventilation. Every such water-closet must be furnished (1) with a separate cistern, service-box, or flushing-box of adequate capacity, which must be so constructed, fitted, and placed as to admit of the supply of water for use therein, without any direct connection between any service-pipe and any other part of the apparatus of the closet; (2) with a suitable apparatus for the effectual application of water to any pan, basin, or other receptacle with which such apparatus may be connected and used, and for the effectual flushing and cleansing of such pan, basin, or receptacle, and the prompt and effectual removal therefrom of any solid or liquid filth which may from time to time be deposited therein; and (3) with a pan, basin, or other suitable receptacle of non-absorbent material, of such shape and capacity and of such mode of construction as to receive and contain a sufficient quantity of water, and to allow all filth which may from time to time be deposited therein to fall free of the sides thereof and directly into the water received and contained therein. No 'container,' or other similar fitting, may be constructed or fixed thereunder; nor may any trap of the kind known as a 'D trap' be constructed, or fixed in, or in connection with the water-closet apparatus.

Earth closets.

Every earth closet constructed in connection with a building must

be furnished with a reservoir or receptacle of suitable construction and adequate capacity for dry earth or other deodorising substance, constructed and fixed in such a manner and position as to admit of ready access thereto, for the purpose of depositing therein the necessary supply of dry earth, or other deodorising substance, and in connection therewith suitable means or apparatus must be constructed or fixed for the frequent and effectual application of the deodorising substance to the filth deposited.

The receptacle for filth provided in connection with the earth closet may be either fixed or movable. In the former case, it must be constructed and fixed in such a manner and in such a position as to admit of the frequent and effectual application of a sufficient quantity of the deodorising substance to the filth deposited, and of ready access thereto for the purpose of removing the contents. It must not be constructed of a capacity greater than may be sufficient to contain such filth and deodorising substance as may be deposited therein during a period prescribed by the bye-law, or in any case of a capacity exceeding a prescribed number of cubic feet. It must be constructed of such material or materials and in such a manner as to prevent any absorption by any part of it of any filth deposited therein, or any escape, by leakage or otherwise, of any part of its contents, and be so constructed and fixed that the bottom or floor thereof shall be a prescribed number of inches above the level of the surface of the ground immediately adjoining, and so that its contents may not at any time be exposed to any rainfall or to the drainage of any waste water or liquid refuse from any adjoining premises. If the receptacle is a movable one, no limit is prescribed as to its capacity, nor is it required to be constructed of non-absorbent materials, nor is the height at which it must be placed above the floor specified in the bye-laws ; but with these exceptions the provisions applicable in the case of fixed receptacles are made to apply, with the necessary modifications.

Model Bye-laws as to privies and ashpits.

The Model Bye-laws as to privies and ashpits prohibit the construction of these conveniences within six feet of any dwelling-house, or within a distance prescribed by the bye-laws of any water supplied for use, or used, or likely to be used by man for drinking or domestic purposes, or otherwise in such a position as to endanger the pollution of any such water. They also require the privy or ashpit to be constructed in such a manner and position as to afford ready means of access thereto for the purpose of cleansing the same, and to admit of the removal of the contents from the premises without being carried through any dwelling-house. They require the privy to be provided with a sufficient opening for ventilation as near to the top as practicable, communicating directly with the external air, and provide that the floor shall be flagged or paved with hard tiles or other non-absorbent material, and constructed so that it shall be in every part thereof at a height of not less than six inches above the level of the surface of the adjoining ground, and have a fall or inclination towards the door of the privy of half an inch to the foot. As in the case of earth closets, they provide separately for the cases in which the receptacle for filth is movable or fixed. In the former case, there must be constructed over the whole area of the space immediately beneath the seat of the privy a flagged or asphalted floor, at a height of not less than three inches above the level of the surface of the adjoining ground, and the whole extent of each side of such space between the

Privies.

floor and the seat must be constructed of flagging, slate, or good brickwork at least nine inches thick, and rendered in good cement, or asphalted. The seat, the aperture therein, and the space beneath must be of such dimensions as to admit of a movable receptacle for filth, not exceeding two cubic feet in capacity, being placed and fitted beneath the seat in such a manner and position as may effectually prevent the deposit of filth elsewhere than in the receptacle; and the seat must be so constructed that the whole or a sufficient part of it may be readily removed or adjusted in such a manner as to afford adequate access to the space beneath for the purpose of cleansing the same and removing the receptacle therefrom or placing and fitting it therein.

Where the receptacle is a fixed one it must not in any case be of a capacity exceeding eight feet; suitable means or apparatus must be provided in connection with the privy for the frequent and effectual application of ashes, dust, or dry refuse to the filth deposited; and the receptacle must be so constructed that the contents may not at any time be exposed to any rainfall or the drainage of any waste water or liquid refuse from any adjoining premises. It must also be constructed of such material or materials and in such a manner as to prevent any absorption by any part of it of any filth deposited therein, or any escape by leakage or otherwise of its contents. The bottom or floor of the privy must be in every part at least three inches above the level of the surface of the adjoining ground, and adequate means of access must be provided for the purpose of cleansing the receptacle and removing the filth therefrom.

Ashpits.

The capacity of an ashpit as prescribed by the Model Bye-laws must not in any case exceed six cubic feet, or such less capacity as may be sufficient to contain all dust, ashes, rubbish, and dry earth which may accumulate, during a period not exceeding one week, upon the premises to which the ashpit belongs. The ashpit must be constructed of flagging, or slate, or good brickwork at least nine inches thick, and rendered inside with good cement or properly asphalted. Its floor must be at a height of not less than three inches above the surface of the adjoining ground, and must be properly flagged or asphalted; and the ashpit must be properly roofed over and ventilated, and furnished with a suitable door in such a position and so constructed and fitted as to admit of the convenient removal of the contents and of being securely closed and fastened for the effectual prevention of the escape of any of the contents.

Privies and ashpits not to communicate with drains.

No part of the space underneath the seat of any privy or any part of any receptacle for filth in or in connection with the privy, and no part of any ashpit, may be so constructed as to communicate with any drain.

VI. SCAVENGING AND CLEANSING

Importance of removal of house refuse, &c., from premises at stated and frequent intervals.

It is of the utmost importance, from a sanitary point of view, that all house refuse, fæcal matter, and other filth should be removed from the neighbourhood of inhabited premises systematically and effectually at regular and frequent intervals. In the great majority of cases this result can be most readily and safely secured by a sanitary authority themselves undertaking the work, or entering into a proper contract, with due stipulations[1] for its performance by the contractor. Where neither

[1] The nature of the stipulations which should be inserted in these contracts, as regards the periods within which the refuse and other matter should be removed,

of these courses is adopted, the work will usually be performed by the individual occupiers, after a more or less irregular and perfunctory fashion, whatever bye-laws [1] the sanitary authority may make with the object of requiring it to be done by them at stated intervals. In many districts the circumstances are such that it would be obviously improper to leave the occupiers to do the work; and the Public Health Act accordingly, while enacting that every urban and rural sanitary authority may, has also provided that when required by order of the Local Government Board, these authorities shall themselves undertake or contract for the removal of house refuse from premises, and the cleansing of earth closets, privies, ashpits, and cesspools, either for the whole or any part of their district; and has further provided that every urban sanitary authority and every rural sanitary authority invested by the Local Government Board with the requisite powers [2] may, and, when required by the Local Government Board, shall themselves undertake or contract for the proper cleansing of streets, and may also themselves undertake or contract for the proper watering of streets for the whole or any part of their district.

Powers and duties of sanitary authorities as regards removal of house refuse and cleansing of earth closets, privies, ashpits, cesspools, &c. (Public Health Act, 1875, Sec. 42).

Where any sanitary authority, urban or rural, themselves undertake or contract for the removal of house refuse, they may, if Part III. of the Public Health Acts Amendment Act, 1890, has been adopted in their district, make bye-laws under Section 26 (2) of that Act imposing on the occupier of any premises duties in connection with such removal, so as to facilitate the work which the sanitary authority undertake or contract for.

Facilities to be given by occupiers (Public Health Acts Amendment Act, 1890, Sec. 26 (2)).

All matters collected[3] by the sanitary authority or contractor in pursuance of the foregoing provisions of the Public Health Act may be sold or otherwise disposed of, and the profits thus made by an urban sanitary authority are to be carried to the account of the fund or rate applicable by them to the general purposes of the Act; and any profits thus made by a rural sanitary authority in respect of any contributory[4] place are to be carried to the account of the fund or rate out of which expenses incurred under the above provisions by the authority in such contributory place are defrayed.

If any person removes or obstructs the sanitary authority or contractor in removing any matters by the above provisions authorised to be removed by the authority, he will for each offence be liable to a penalty not exceeding 5*l.*; subject to this exception, that the occupier of a house within the district will not be liable to the penalty in respect of any such matters which are produced in his own premises, and are intended to be removed for sale or for his own use, and are in the meantime kept so as not to be a nuisance.

Penalty for obstructing sanitary authority or contractor in removal of refuse, &c.

may be inferred from the Model Bye-laws, which have been framed for the guidance of sanitary authorities, who impose the duty on the occupier. The contents of these bye-laws are given on p. 57.

[1] As to the bye-laws which may be made for this purpose, see below, p. 57.

[2] See p. 11.

[3] As regards the powers of urban sanitary authorities to provide places for the deposit of these matters, see below on page 56.

[4] As to what constitutes a contributory place, and the incidence of charge of 'general' and 'special expenses,' see pp. 28 and 29. The expenses of the removal of refuse &c. will be a general expense in any rural sanitary district, unless it has been declared to be a special expense by an order of the Local Government Board. The question whether the expense should be made a special expense or not will depend upon the nature of the arrangements made by the sanitary authority for the removal of refuse &c. in the several contributory places in their district.

Penalty on neglect of sanitary authority to remove refuse &c., (Sec. 43).

If a sanitary authority, who have themselves undertaken or contracted for the removal of house refuse from premises, or the cleansing of earth closets, privies, ashpits, and cesspools, fail without reasonable excuse, after notice in writing from the occupier of any house within their district requiring them to remove any house refuse, or to cleanse any earth closet, privy, ashpit, or cesspool belonging to such house, or used by the occupiers thereof, to cause the same to be removed or cleansed, as the case may be, within seven days, they will be liable to pay to the occupier of the house a penalty not exceeding five shillings for every day during which such default continues after the expiration of the seven days.

Power of urban sanitary authority to provide receptacles and places for deposit of the matters collected (Sec. 45).

Any urban sanitary authority may, if they see fit, provide, in proper and convenient situations, receptacles for the temporary deposit and collection of dust, ashes, and rubbish, and may also provide fit buildings and places for the deposit of any matters collected by them in pursuance of the provisions of the Act relating to scavenging and cleansing.

Powers of sanitary authorities to make bye-laws imposing duty of cleansing, &c., on occupiers (Sec. 44).

Where the sanitary authority do not themselves undertake or contract for the cleansing of footways and pavements adjoining any premises, the removal of house refuse from any premises, or the cleansing of earth closets, privies, ashpits, and cesspools belonging to any premises, they may make bye-laws[1] imposing the duty of such cleansing and removal, at such intervals as they think fit, on the occupier of any such premises. It will be observed that the scope of these bye-laws is extremely limited, and that the mode of cleansing or removal, and the precautions to be observed in connection with the process, do not come within their range. For this reason, if for no other, any arrangement under which the work is left to be done by the occupier is likely to be less satisfactory from a sanitary point of view than one under which it is performed by the sanitary authority, or by a contractor acting under their directions, if the removal and cleansing are merely regulated by means of bye-laws made and enforced by the sanitary authority under the above provisions.[2] Apart from this consideration, the supervision requisite to insure a due observance of the bye-laws must be very close, if it is to be effective, and may possibly entail a considerable amount of labour and unpopularity on the officials of the sanitary authority, besides involving the authority in more or less litigation. Any system of removal or cleansing will, in fact, as a general rule, be more effectual and popular if it is undertaken by the sanitary authority or a contractor than if it is required to be carried out by individuals under compulsion.

Reasons which render it advisable for the sanitary authority to undertake or contract for the work.

Model Bye-laws. Intervals prescribed from removal of refuse, &c.

There are, however, districts in which, owing to the sparseness of the population or to other causes, the sanitary authority decide not to throw the cost of this important work upon the rates. Where this is the case, it is very desirable that bye-laws should be made imposing the duty of performing the work upon the occupiers, and prescribing the intervals at which it is to be periodically carried out. By far the most fertile cause of the existence of filth nuisances is the length of time

[1] With respect to the general provisions of the Act relating to bye-laws, their confirmation, &c., see p. 33.

[2] In urban sanitary districts, as will be seen below, these bye-laws may be supplemented with bye-laws for the prevention of nuisances arising from filth, dust, ashes, and rubbish, and with bye-laws under Section 26 (1) of the Public Health Acts Amendment Act, 1890. By these means provision may be made for the taking of due precautions in the process of removal and cleansing.

during which the house refuse and excreta are allowed to accumulate on the premises before any attempt is made to take them away. The Model Bye-laws, to which reference has already been made, fully recognise the necessity of prompt action in this matter. They require the house refuse to be removed once at least in every week; and prescribe the same interval for the cleansing of every privy and ashpit, and of every earth closet furnished with a movable receptacle for fæcal matter, and with suitable means or apparatus for the frequent and effectual application of dry earth to such matter. Where the receptacle is fixed, the time allowed is three months, and a like period is prescribed for the cleansing of cesspools. It is to be feared that in districts in which no bye-laws are in force, and the removal and cleansing is not undertaken by the sanitary authority or their contractor, these periods are usually very greatly exceeded, and that the public health is not unfrequently endangered in consequence.

Powers of urban sanitary authorities to make bye-laws for the prevention of certain nuisances (Sec. 44).

In addition to these bye-laws, urban sanitary authorities may make bye-laws for the prevention of nuisances arising from snow, filth, dust, ashes, and rubbish, and for the prevention of the keeping of animals on any premises so as to be injurious to health. Model bye-laws have been issued by the Local Government Board for the prevention of these nuisances. So far as nuisances from snow are concerned, these bye-laws require the occupiers of premises fronting, adjoining, or abutting on streets, as soon as conveniently may be after every fall of snow, to cause the snow to be removed from the adjoining footways and pavements in such a manner as to prevent any undue accumulation thereof on any channel or carriage way or any paved crossing; and require every person, who, while removing the snow, throws salt on it, to forthwith effectually remove from the pavement the whole of the deposit resulting from the admixture of the salt with the snow. For the prevention of nuisances arising from filth, dust, ashes, and rubbish, they provide for the taking of proper precautions to prevent any of these matters while in process of removal from any premises from falling upon footways, pavements, or carriage ways; and require the occupiers to cause to be used for the purpose of such removal suitable vessels or receptacles, carts, or carriages properly constructed, and furnished with sufficient coverings, so as to prevent the escape of the contents. They further impose on the persons removing these matters the duty of thoroughly cleansing any place on any footway, pavement, carriage way, or street on which any of the matters may have fallen during the removal. They prescribe the number of hours within which any cargo, load, or collection of filth must be removed, which may have been conveyed by water or land, to any place within the district, and may have been deposited in such a situation and in such a manner that the filth may be exposed without adequate means of preventing the emission of stench therefrom within a distance to be prescribed by the bye-laws from any street, or from any building or premises used wholly or partly for human habitation or as a school, or as a place of public worship, or as a place of public worship or of public resort, or public assembly, or from any building or premises where any person may be employed in any manufacture, trade, or business. And they provide that every person who, for any purpose of agriculture, causes to be deposited upon any lands or premises within a distance prescribed by the bye-laws from any street or any of the above buildings or places any filth that may have been removed from any cesspool or privy and

Snow nuisances.

Nuisances arising from filth, dust, ashes, and rubbish.

may not have been effectually deodorised, shall with all reasonable despatch cause such filth to be ploughed or dug into the ground or to be covered with a sufficient layer of earth, ashes, or other suitable substance, or adopt such other precautions as may be reasonably necessary to prevent the emission of noxious or offensive effluvia therefrom.

Further powers to make bye-laws as to removal of offensive matters and liquids (Public Health Acts Amendment Act, 1890, Sec. 26 (1)).

In addition to the bye-laws which may thus be made under the Public Health Act, 1875, Section 26 (1) of the Public Health Acts Amendment Act, 1890, empowers urban sanitary authorities of districts in which Part III. of that Act is in force, to make bye-laws in respect of the following matters: viz. (*a*) For prescribing the times for the removal or carriage through the streets of any fæcal or offensive or noxious matter or liquid, whether such matter or liquid is in course of removal or carriage from within or without or through their district; (*b*) For providing that the vessel, receptacle, cart, or carriage used therefor shall be properly constructed and covered, so as to prevent the escape of any such matter or liquid; and (*c*) For compelling the cleansing of any place whereon such matter or liquid shall have been dropped or spilt in such removal or carriage.

Bye-laws for the prevention of the keeping of animals so as to be injurious to health.

The bye-laws which, as also mentioned, may be made under the Public Health Act, 1875, for the prevention of the keeping of animals so as to be injurious to health, prohibit the keeping of swine or cattle, or the deposit of their dung in such a situation or in such a manner as to pollute any water supplied for use, or used, or likely to be used, by man for drinking or domestic purposes, or for manufacturing drinks for the use of man, or any water used, or likely to be used, in any dairy. They also prohibit the keeping of swine or the deposit of swine's dung, within a distance [1] to be prescribed by the bye-law, in any dwelling-house. They require every occupier of premise, whereon any horse or other beast of draught or burden, or any cattle or swine, may be kept, to provide in connection therewith a suitable receptacle for dung, manure, soil, filth, or other offensive or noxious matter which may from time to time be produced in the keeping of the animal on the premises. This receptacle must be constructed so that the bottom or floor thereof shall not in any case be lower than the surface of the adjoining ground, and in such a manner and of such materials, and be maintained at all times in such a condition, as to prevent any escape of its contents or any soakage from it into the ground or into the wall of any building. It must be furnished with a suitable cover, and, when

[1] In determining this distance regard should be had to the decisions of the courts in *Wanstead Local Board* v. *Wooster*, 38 J. P. 21; and *Heap* v. *Burnley Union*, L. R. 12 Q. B. D. 617; 53 L. J. M. C. 76; 32 W. R. 738; 48 J. P. 359. In the former case it was held that a bye-law made by an urban sanitary authority, prohibiting the keeping of pigs within 100 feet of a dwelling-house, was not unreasonable; and in order to a conviction it was not necessary to prove that the infraction of the bye-law caused a nuisance. In the case of *Heap* v. *Burnley Union*, however, where the bye-law was made by a rural sanitary authority, and the distance prescribed was only 50 feet, the bye-law was held to be *ultra vires*. In coming to this decision, Lord Coleridge said, 'It seems to me unreasonable to say that in country districts nobody shall keep a pig within 50 feet of his dwelling-house. One cannot exclude from the mind the common knowledge that in thousands of cases pigs are kept within that distance. I am not pressed with the case of *Wanstead Local Board* v. *Wooster*. I observe that Blackburn, J., in his judgment enforces the distinction between a popular place and a rural district like that in question here. It is true that he said that twice the distance specified in this bye-law was not unreasonable in a bye-law made with respect to a populous place; but he by no means said that half that distance in the country would be reasonable.'

not required to be open, be kept properly covered. The occupier of the premises must cause the contents of this receptacle to be removed once[1] at least in every week; and he must also provide in connection with the building or premises where the animal is kept, a sufficient drain constructed in such a manner and of such materials, and maintained at all times in such a condition, as effectually to convey all urine or liquid filth or refuse therefrom into a sewer, cesspool, or other proper receptacle.

Special provisions as to keeping of swine in urban sanitary districts (Public Health Act, 1875, Sec. 47 (1); Towns Police Clauses Act, 1847, Sec. 28).

In connection with nuisances arising from the keeping of animals, it should be mentioned that Section 47 of the Public Health Act provides that any person who, in any urban sanitary district, keeps any swine or pigsty in any dwelling-house, or so as to be a nuisance to any person, shall be liable to a penalty not exceeding forty shillings, and to a further penalty not exceeding five shillings for every day during which the offence is continued; and enables the sanitary authority to abate the nuisance and recover the expenses incurred by them in so doing in a summary manner from the occupier. A penalty of forty shillings is also imposed by Section 28 of the Towns Police Clauses Act, 1847, which is incorporated with the Public Health Act, so far as urban sanitary districts are concerned, on every person who in any street to the obstruction, annoyance, or danger of the residents or passengers keeps any pigsty in front of any street, not being shut out from such street by a sufficient wall or fence, or who keeps any swine in or near any street, so as to be a common nuisance.

Periodical removal of manure from mews and other premises (Public Health Act, 1875, Sec. 50).

Moreover, notice may be given by any urban sanitary authority (by public announcement in the district or otherwise) for the periodical removal of manure or other refuse matter from mews, stables, or other premises; and where any such notice has been given, any person to whom the manure or other refuse matter belongs, who fails so to remove the same or permits a further accumulation, and does not continue such periodical removal at such intervals as the sanitary authority direct, will be liable without further notice to a penalty not exceeding twenty shillings for each day during which such manure or other refuse matter is permitted to accumulate. And where in any urban sanitary district it appears to the inspector of nuisances that any accumulation of manure, dung, soil, or filth, or other offensive or noxious matter ought to be removed, it is his duty to give notice to the person to whom the same belongs, or to the occupier of the premises whereon it exists, to remove the same; and if such notice is not complied with within twenty-four hours from the service thereof, the manure, dung, soil, filth, or matter referred to will be vested in, and must be sold or disposed of by, the sanitary authority, the proceeds being applied in payment of the expenses incurred by the authority under these provisions, and the surplus, if any, paid on demand to the owner of the matter removed. The expenses of removal by the sanitary authority of any such accumulation, of and so far as they are not covered by the sale thereof, may be recovered by the authority in a summary manner from the person to whom the accumulation belongs, or from the occupier of the premises, or, if there is no occupier, from the owner.

Removal of manure, &c., on certificate of inspector of nuisances (Sec. 49).

Where, on the certificate of the medical officer of health or of any two medical practitioners, it appears to any sanitary authority that any

[1] This provision will be unnecessary where the sanitary authority have given the notice contemplated by Section 50, as to which, see below on this page.

Whitewashing, cleansing, and purifying houses in filthy or unwholesome condition (Sec. 46).

house or part of a house [1] is in such a filthy or unwholesome condition that the health of any person is affected or endangered thereby, or that the whitewashing, cleansing, or purifying of any house or part thereof would tend to prevent or check infectious disease, it is the duty of the sanitary authority to give notice in writing to the owner or occupier to whitewash, cleanse, or purify the same, as the case may require. If the person to whom notice is so given fails to comply therewith within the time specified, he will be liable to a penalty not exceeding ten shillings for every day during which he continues to make default; and the sanitary authority may, if they think fit, cause such house or part thereof to be whitewashed, cleansed, or purified, and may recover, in a summary manner, the expenses incurred by them in so doing from the person in default.

It will be observed that the above provisions are directed against houses in a filthy or unwholesome condition, and that the remedy to be applied to them is whitewashing, cleansing, or purifying. Where the main object is the disinfection of the house or any part thereof, or of any article likely to retain infection, the better course will probably be to proceed under Section 120 of the Act, as to which see p. 160.

Both sections apply alike to urban and rural sanitary districts.

Provision for keeping common courts and passages clean (Public Health Acts Amendment Act, 1890, Sec. 27).

Where any court, or where any passage leading to the back of several buildings in separate occupations, and not being a highway [2] repairable by the inhabitants at large, is not regularly and effectually swept and kept clean and free from rubbish or other accumulation to the satisfaction of the urban sanitary authority, the authority may, if they think fit, assuming that they have adopted Part III. of the Public Health Acts Amendment Act, 1890, cause the court or passage to be swept and cleansed.

The expenses incurred in this work should be apportioned between the occupier of the buildings situated in the court or to the back of which the passage leads, in such shares as may be determined by the surveyor of the sanitary authority, or, in case of dispute, by a court of summary jurisdiction; and in default of payment, any share so apportioned may be recovered summarily from the occupier on whom it is apportioned.

Penalty in respect of certain nuisances in urban sanitary districts (Public Health Act, 1875, Sec. 47 (2), (3)).

Subsections (2) and (3) of Section 47 of the Public Health Act, which apply to filthy and unwholesome conditions in or about houses, are in force only in urban sanitary districts, except [3] where they have been specially applied to rural sanitary districts or parts thereof by order of the Local Government Board. They impose a penalty of 40*s*., and a continuing penalty of five shillings a day, on every person who in any urban sanitary district suffers any waste or stagnant water to remain in any cellar or place within any dwelling-house for twenty-four hours after written notice to him from the sanitary authority to remove the same, or who allows the contents of any water-closet, privy, or cesspool to overflow or soak therefrom. They also make it the duty of the authority to abate the nuisance, and enable them to recover the expenses of so doing from the occupier in a summary manner.

The only other provisions of the Act to which it seems necessary to draw attention under the head of 'scavenging and cleansing,' are those

[1] For the definition of 'house,' see p. 30.

[2] Highways repairable by the inhabitants at large are required to be cleansed at the expense of the authority themselves.

[3] See p. 11.

contained in Section 48, which are to the effect that where any watercourse or open ditch lying near to or forming the boundary between the district of any sanitary authority and any adjoining district is foul and offensive, so as injuriously to affect the district of such authority, any justice having jurisdiction in such adjoining district may, on the application of such sanitary authority, summon the sanitary authority of such adjoining district to appear before a court of summary jurisdiction to show cause why an order should not be made by such court for cleansing such watercourse or open ditch, and for executing such permanent or other structural works as may appear to such court to be necessary; and such court, after hearing the parties, or *ex parte* in case of the default of any of them to appear, may make such order with reference to the execution of the works and the persons by whom the same shall be executed, and by whom and in what proportions the costs of such works shall be paid, and also as to the amount thereof, and the time and mode of payment as to such court may deem reasonable.

Provision for obtaining justices' orders for cleansing offensive ditches or watercourses lying near to or forming the boundaries of districts (Sec. 48).

VII. NUISANCES

No provisions of the Public Health Act are of more general utility than those relating to the suppression of nuisances. They apply to every urban and rural sanitary district, and are to be deemed to be in addition to, and not to abridge or affect, any right, remedy, or proceeding under any other provisions of the Act or under any other Act, or at law or in equity; and they enable summary proceedings to be taken before the magistrates for the abatement of the nuisances to which they relate. No person may, however, be punished for the same offence both under these provisions and under any other law or enactment. It will be seen from the definition of 'nuisance,' which is given below, that it includes some nuisances, e.g., privies, cesspools, drains, and ashpits so foul, or in such a state as to be injurious to health, and accumulations and deposits which are a nuisance or injurious to health, in respect of which remedies are given by other provisions of the Public Health Act. (See Sections 41, 49 and 50.)

Provisions of Public Health Act relating to nuisances (Public Health Act, 1875, Secs. 91-111).

In these and other similar cases it will of course rest with the sanitary authority to determine under which provisions they will proceed, having regard to the circumstances of each case. The definition of nuisances, which may be dealt with summarily under the Act, includes—

(1) Any premises in such a state as to be a nuisance [1] or injurious to health:

(2) Any pool,[2] ditch, gutter, watercourse, privy, urinal, cesspool, drain, or ashpit so foul or in such a state as to be a nuisance or injurious to health:

(3) Any animal so kept as to be a nuisance or injurious to health:

[1] These words include nuisances which, though they may not have actually caused injury to health, will interfere with the comfort of life, and may probably become injurious to health. *Bishop Auckland Local Board* v. *Bishop Auckland Iron Company*, L. R. 10 Q. B. D. 138; 52 L. J. M. C. 38; 31 W. R. 288; 48 L. T (N. S.) 223; 47 J. P. 389.

[2] By Section 8 (1) (*f*) of the Local Government Act, 1894, every parish council is empowered to deal with any pond, pool, open ditch, drain, or place containing or used for the collection of any drainage, filth, stagnant water, or matter likely to be prejudicial to health, by draining, cleansing, covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right or the sewage or drainage works of any local authority.

(4) Any accumulation or deposit which is a nuisance or injurious to health :

(5) Any house [1] or part of a house so overcrowded [2] as to be dangerous or injurious to the health of the inmates, whether or not members of the same family :

(6) Any factory,[3] workshop, or workplace not kept in a cleanly state, or not ventilated in such a manner as to render harmless, so far as practicable, any gases, vapours, dust or other impurities generated in the course of the work carried on therein that are a nuisance or injurious to health, or so overcrowded while work is carried on as to be dangerous or injurious to the health of those employed therein :

(7) Any fireplace or furnace which does not, so far as practicable, consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dye-house, brewery, bakehouse or gaswork, or in any manufacturing or trade process whatsoever ; and

Any chimney (not being the chimney of a private dwelling-house) sending forth black smoke in such quantity as to be a nuisance.

Accumulations and deposits necessary for the carrying on of business.

The same section which defines these nuisances provides, however, that a penalty shall not be imposed on any person in respect of any accumulation or deposit necessary for the effectual carrying on of any business, if it be proved to the satisfaction of the court that the accumulation or deposit has not been kept longer than is necessary for the purposes of the business or manufacture, and that the best available means have been taken for preventing injury thereby to the public health ; and that where a person is summoned before any court in respect of a nuisance arising from a fireplace or furnace which does not consume the smoke arising from the combustible used therein, the court shall hold that no nuisance is created within the meaning of the Act, and dismiss the complaint, if it is satisfied that such fireplace or furnace is constructed in such a manner as to consume as far as practicable, having regard to the nature of the manufacture or trade, all smoke arising therefrom, and that such fireplace or furnace has been carefully attended to by the person having charge thereof.

Fireplace or furnace used in manufacture or trade.

Saving of mines, smelting of ores and minerals, puddling of iron, &c. (Sec. 334)

And a further saving clause in the Act, which is applicable to the provisions of the Act relating to nuisances, provides that nothing in the Act shall be construed to extend to mines of different descriptions, or to obstruct the efficient working of the same ; nor to the smelting of ores and minerals, nor to the calcining, puddling, and rolling of iron and other metals, nor to the conversion of pig iron into wrought iron, so as to obstruct or interfere with any of such processes respectively.

Unfenced quarries (Quarry (Fencing) Act, 1887).

The Quarry (Fencing) Act, 1887, provides that where any quarry dangerous to the public is in open or unenclosed land, within fifty yards of a highway or place of public resort dedicated to the public, and is not separated therefrom by a secure and sufficient fence, it shall be

[1] As regards the definition of 'house,' see note, p. 30.

[2] Where two convictions against the provisions of any Act relating to the overcrowding of a house have taken place within a period of three months, whether the persons convicted were or were not the same, Section 109 of the Public Health Act, 1875, provides that a court of summary jurisdiction may, on the application of the sanitary authority, direct the closing of the house for such period as the court may deem necessary. See further as to the powers of sanitary authorities as regards the closing and demolition of insanitary dwellings under the Housing of the Working Classes Act, 1890, pp. 89 to 92.

[3] As to the factories to which this enactment will not apply in consequence of their being subject to the provisions of the Factory and Workshop Act, 1878, relating to cleanliness, ventilation, and overcrowding, see pp. 113 and 119.

kept reasonably fenced for the prevention of accident, and unless so kept shall be deemed to be a nuisance liable to be dealt with summarily in manner provided by the Public Health Act, 1875.

Abandoned coal mines (Coal Mines Regulation Act, 1887).

The Coal Mines Regulation Act, 1887, contains similar provisions with respect to the fencing of coal mines abandoned, or the working of which is discontinued.

Duty of sanitary authority to cause their district to be inspected for the detection of nuisances (Sec. 92).

It is the duty of every sanitary authority to cause to be made from time to time inspection of their district, with a view to ascertain what nuisances exist, calling for abatement under the powers of the Public Health Act, and to enforce the provisions of the Act in order to abate the same; and also to enforce the provisions of any Act in force within their district requiring fireplaces and furnaces to consume their own smoke. For this purpose, amongst others, every urban sanitary authority must appoint one, and every rural sanitary authority one or more inspector or inspectors of nuisances.[1]

Appointment of inspectors of nuisances (Secs. 189, 190).

Information of nuisances to sanitary authority (Sec. 93).

Information of nuisance under the Act in the district of any sanitary authority may be given to such authority by any person aggrieved thereby, or by any two inhabitant householders of such district, or by any officer of such authority, or by the relieving officer, or by any constable or officer of the police force in the district.

Sanitary authority to serve notice requiring abatement of nuisance (Sec. 94).

On the receipt of any information respecting the existence of a nuisance, the sanitary authority is required by the Act, if satisfied of the existence of a nuisance, to serve a notice on the person by whose act, default or sufferance the nuisance arises or continues; or if such person cannot be found, on the owner[2] or occupier of the premises on which the nuisance arises, requiring him to abate the same within a time to be specified in the notice,[3] and to execute such works and do such things as may be necessary for that purpose. Provided that where the nuisance arises from the want or defective construction of any structural convenience, or where there is no occupier of the premises, the notice must be served on the owner; and that where the person causing the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act, default, or sufferance of the owner or occupier of the premises, the sanitary authority may themselves abate the same without further order.

Where nuisance is caused by the act or default of two or more persons (Sec. 255).

Where any nuisance under the Act appears to be wholly or partially caused by the acts or defaults of two or more persons, it will be lawful for the sanitary authority or other complainant[4] to institute proceedings against any one of such persons, or to include all or any two or more of such persons in one proceeding; and any one or more of such persons may be ordered to abate such nuisance, so far as the same appears to the court having cognizance of the case to be caused by his or their acts or defaults, and may be prohibited from continuing any acts or defaults, which in the opinion of such court contribute to such nuisance, or may be fined or otherwise punished, notwithstanding that the acts and defaults of any one of such persons would not

[1] As to the appointment, tenure of office, and duties of inspectors of nuisances, whose salaries are partly repaid by the county council, see pp. 208 to 212.

[2] For the definition of 'owner,' see note on p. 30. It will be sufficient to designate the owner or occupier as 'owner' or 'occupier,' as the case may be, without name or further description. See Section 255.

[3] The form of notice contained in Schedule 10 to the Act contemplates that the particular works to be executed shall be specified in the notice.

[4] As will be seen below, p. 68, the like proceedings before the magistrates may be taken for the abatement of nuisances by persons aggrieved, or by inhabitants of the district or owners of property in the district, as by the sanitary authority.

separately have caused a nuisance; and the costs may be distributed as to such court may appear fair and reasonable. This section is of great practical utility, especially with respect to nuisances arising from the discharge of sewage into ditches, and other similar cases.

On non-compliance with notice, complaint to be made to a justice (Sec. 95).

If the person on whom a notice to abate a nuisance has been served makes default in complying with any of the requisitions thereof within the time specified, or if the nuisance, though abated since the service of the notice, is, in the opinion of the sanitary authority, likely to recur on the same premises, it is the duty of the sanitary authority to cause a complaint relating to such nuisance to be made before a justice, who must thereupon issue a summons requiring the person on whom the notice was served to appear before a court of summary jurisdiction.

Order by court dealing with the nuisance (Sec. 96).

If the court is satisfied that the alleged nuisance exists, or that, although abated, it is likely to recur on the same premises, it must make an order on the person[1] on whom the notice has been served, requiring him to comply with all or any of the requisitions of the notice, or otherwise to abate the nuisance, within a time specified in the order, and to do any works necessary for that purpose; or an order prohibiting the recurrence of the nuisance, and directing the execution of any works necessary to prevent the recurrence; or an order requiring abatement and prohibiting the recurrence of the nuisance. The court may by their order impose a penalty not exceeding 5*l.* on the person on whom the order is made, and must also give directions as to the payment of all costs incurred up to the time of the hearing or making the order for abatement or prohibition of the nuisance.

Where the order of the court directs the execution of works, it will not be sufficient that it should in general terms direct the defendant to execute such works as may be necessary to remove the nuisance, and prevent its recurrence. It must specify the works which are to be carried out for this purpose.[2]

Prohibition of habitation of houses unfit for habitation (Sec. 97).

Where the nuisance, proved to exist, is such as to render a house or building, in the judgment of the court, unfit for human habitation, the court may prohibit the using thereof for that purpose [3] until, in its judgment, the house or building is rendered fit for that purpose; and on the court being satisfied that it has been rendered fit for that purpose, the court may determine its previous order by another declaring the house or building habitable, and from the date thereof such house or building may be let or inhabited.

Penalty for contravention of order of court (Sec. 98).

Any person not obeying an order to comply with the requisitions of the sanitary authority, or otherwise to abate the nuisance, will, if he fails to satisfy the court that he has used all due diligence to carry out such order, be liable to a penalty not exceeding ten shillings per day during his default; and any person knowingly and wilfully acting contrary to an order of prohibition, will be liable to a penalty not exceeding twenty shillings per day during such contrary action. Moreover, the sanitary authority may enter the premises to which any order relates, and abate the nuisance, and do whatever may be necessary

[1] As regards the cases in which the order is made on two or more persons, see Section 255 above.

[2] *Regina* v. *Wheatley*, L. R. 16 Q. B. D. 34; 54 L. T. (N. S.) 680; 34 W. R. 257; 50 J. P. 424.

[3] See further as to the proceedings to be taken for obtaining these orders, and the subsequent duty of the sanitary authority under Part II. of the Housing of the Working Classes Act, 1890, pp. 90 to 92.

in execution of such order, and recover in a summary manner the expenses incurred by them from the person on whom the order is made.

Effect of appeal on penalty, &c. (Sec. 90).

Where any person appeals against an order to the Court of Quarter Sessions no liability to penalty will arise, nor may any proceedings be taken or work be done under the order, unless such appeal ceases to be prosecuted.

In certain cases order to be addressed to sanitary authority (Sec. 100).

Whenever it appears to the satisfaction of the court of summary jurisdiction that the person by whose act or default the nuisance arises, or the owner or occupier of the premises is not known or cannot be found, the order of the court may be addressed to and executed by the sanitary authority.

Power to sell manure, &c. (Sec. 101).

Any matter or thing[1] removed by the sanitary authority in abating any nuisance under the Act may be sold by public auction; and the money arising from the sale may be retained by the sanitary authority, and applied in payment of the expenses incurred by them with reference to such nuisance, and the surplus, if any, must be paid on demand to the owner of such matter or thing.

Power of entry of sanitary authority and their officers (Sec. 102).

The sanitary authority, or any of their officers, must be admitted into any premises for the purpose of examining as to the existence of any nuisance thereon, or of enforcing the provisions of any Act in force within the district requiring fireplaces and furnaces to consume their own smoke, at any time between the hours of nine in the forenoon and six in the afternoon, or in the case of a nuisance arising in respect of any business, at any hour when such business is in progress, or is usually carried on. Where under the Act a nuisance has been ascertained to exist, or an order of abatement or prohibition has been made, the sanitary authority, or any of their officers, must be admitted from time to time into the premises between the hours aforesaid, until the nuisance is abated or the works ordered to be done are completed, as the case may be.

When an order of abatement or prohibition has not been complied with, or has been infringed, the sanitary authority or any of their officers must be admitted from time to time, at all reasonable hours, or at all hours during which business is in progress or is usually carried on, into the premises where the nuisance exists, in order to abate the same.

If admission to premises for any of the purposes of this section is refused, any justice, on complaint thereof on oath by any officer of the sanitary authority (made after reasonable notice in writing of the intention to make the same has been given to the person having custody of the premises), may by order under his hand require the person having custody of the premises to admit the sanitary authority, or their officer, into the premises during the hours aforesaid; and if no person having custody of the premises can be found, the justice shall, on oath made before him of the fact, by order under his hand authorise the sanitary authority, or any of their officers, to enter such premises during the hours aforesaid.

An order made by a justice for admission of the sanitary authority or any of their officers on premises will continue in force until the nuisance has been abated, or the work for which the entry was necessary has been done.

Any person who refuses to obey an order of a justice for admission

[1] See the similar provisions in Section 49 with respect to the sale of accumulations of filth in urban sanitary districts, p. 59.

Penalty for disobedience of order (Sec. 103).

of the sanitary authority or any of their officers on any premises is liable to a penalty not exceeding five pounds.

Proceedings in High Court of Justice for abatement of nuisances (Sec. 107).

In the great majority of instances summary proceedings before the magistrates will afford an adequate remedy for the abatement or prohibition of nuisances under the Public Health Act. Exceptional cases, however, no doubt occasionally arise, in which, owing to legal difficulties, or to the magnitude of the interests involved, and the probability of an ultimate appeal to the High Court of Justice, it is desirable to commence proceedings in the first place in that Court to enforce the abatement or prohibition of nuisances under the Act, or for the recovery of penalties from, or the punishment of, persons offending against the provisions of the Act relating to nuisances. To meet these cases full power is given by the Act to sanitary authorities to institute such proceedings, and to order the expenses of and incident to them to be paid out of the fund or rate applicable by them to the general purposes of the Act.

Power to proceed where cause of nuisances arises without district (Sec. 108).

Prior to the passing of the Public Health Act, 1875, it was generally considered that sanitary authorities could not, under the Sanitary Acts, protect the inhabitants of their respective districts against nuisances existing therein, but originating in another district; and as it often happened that these nuisances were of a very serious character, frequent complaints were made of the condition of the law in this respect. To cure this defect, Section 108[1] of the Act now expressly provides that where a nuisance under the Act within the district of a sanitary authority appears to be wholly or partially caused by some act or default committed or taking place without their district, the authority may take or cause to be taken, against any person[2] in respect of such an act or default any proceedings in relation to nuisances authorised by the Act, with the same incidents and consequences as if such act or default were committed or took place wholly within their district; so, however, that summary proceedings shall in no case be taken otherwise than before a court having jurisdiction in the district where the act or default is alleged to be committed or take place.

Special provision as to ships (Sec. 110).

For the purpose of the provisions of the Act relating to nuisances,[3] any ship or vessel lying in any river, harbour, or other water within the district of a sanitary authority will be subject to the jurisdiction of that authority in the same manner as if it were a house within such district. And any ship or vessel lying within any river, harbour, or other water not within the district of a sanitary authority will be deemed to be within the district of such authority as may be prescribed by the Local Government Board; and where no authority has been

[1] This section, as amended by Section 14 of the Public Health (London) Act, 1891, extends to the Metropolis so far as to authorise proceedings to be taken under it by any nuisance authority in the Metropolis (i.e., by the Commissioners of Sewers in the City of London, and by any vestry or district board in the rest of the Metropolis) in respect of any nuisance within the area of their jurisdiction caused by an act or default committed or taking place within the district of a sanitary authority under the Public Health Act; or by any such sanitary authority in respect of any nuisance within their district caused by an act or default committed or taking place within the jurisdiction of any such nuisance authority.

[2] 'Person' includes any body of persons, corporate or unincorporate. See note 4 on p. 23.

[3] As will be seen, p. 167, the scope of this enactment has been extended by the Public Health (Ships, &c.) Act, 1885, so that it now has effect, not only for the purposes of the provisions of the Public Health Act relating to nuisances, but also for the purposes of several sections of that Act relating to infectious diseases and hospitals.

prescribed, then of the sanitary authority whose district nearest adjoins the place where such ship or vessel is lying.

The master or other officer in charge of any such ship or vessel will be deemed for the purpose of the provisions in question to be the occupier.

The above provisions will not, however, apply to any ship or vessel under the command or charge of any officer bearing her Majesty's commission, or to any ship or vessel belonging to any foreign government.

Remedy of individuals where sanitary authorities fail to take proceedings for abatement of nuisances.

It will be seen from the foregoing provisions that ample powers are given by the Act to sanitary authorities to enforce the suppression of nuisances in their districts, and that the duty is directly imposed on them by the Act of taking the necessary steps for the discovery and abatement of such nuisances. In this, however, as in other matters it has been thought necessary by the Legislature to provide for the contingency of the sanitary authority neglecting to perform its duty, and a remedy has accordingly been given to individuals who may be aggrieved by the failure of the authorities to take proceedings. As a matter of fact there are three possible remedies provided by the Act to meet such a case; but practically one only of these is available. Section 299 of the Act to which reference has already been made (pages 15 to 17) enables a complaint to be made to the Local Government Board that a sanitary authority has made default in enforcing any of the provisions of the Act which it is its duty to enforce; and if the complaint is substantiated an order may be obtained from that Board, enforceable by mandamus, requiring the authority within a limited period to perform its duty. But this is manifestly a very roundabout and irrational mode of procedure, so far as the abatement of nuisances is concerned. It is dependent on: (1) Satisfactory proof being furnished to the Local Government Board of the existence of the nuisance; (2) The issue of an order by that Board; and possibly (3) The taking of proceedings in the High Court of Justice before the sanitary authority can be compelled to bring the case before the magistrates. And when this stage has been reached, and the defaulting authority has been required by the court to take proceedings before the magistrates, there can be no security that the facts will be presented to the magistrates in such a manner that the proceedings will be successful. On the contrary, it is only too likely that in such circumstances the authority would be best pleased with the failure of the proceedings, as this result would be a proof that its former inaction had been justifiable. This remedy is not one to which individuals can be recommended to have recourse.

Appeal to Local Government Board (Sec. 299).

Proceedings by police officer (Sec. 106).

In recognition of the difficulties with which it is surrounded, Section 106 of the Act provides that where it is proved to the satisfaction of the Local Government Board that a sanitary authority have made default in doing their duty in relation to nuisances under the Act, that Board may authorise any officer of police, acting within the district of the defaulting authority, to institute any proceedings which the defaulting authority might institute with regard to such nuisance, and that such officer may recover from the defaulting authority in a summary manner, or in any county court, or the High Court of Justice, any expenses incurred by him and not paid by the person proceeded against; but that such officer of police shall not be at liberty to enter any house used as the dwelling of any person without such person's consent, or without the warrant of a justice, for the purpose of carrying this enactment into effect. This remedy is somewhat better than the preceding

one, in so far as it avoids the necessity for applying to the High Court of Justice for a mandamus, and allows the proceedings before the magistrates to be taken by an officer who is not directly interested in the failure of the proceedings. But it involves proving to the satisfaction of the Local Government Board in the first instance, and of the magistrates in the second, what could more readily be proved in the first instance before the magistrates; and the conduct of the proceedings by an officer who, if not interested in their failure, will usually have no interest in their success. Having regard to these considerations, it is obvious that the simplest and most efficacious remedy available for individuals, where the sanitary authority decline to take proceedings in respect of any nuisance is that given by Section 105 of the Act, which enables a complaint to be made to a justice of the existence of a nuisance under the Act on any premises within the district of a sanitary authority by any person aggrieved thereby, or by any inhabitant of such district, or by any owner of premises within such district, and which provides that thereupon the like proceedings shall be had with the like incidents and consequences as to the making of orders, penalties for disobedience of orders, appeal and otherwise, as in the case of a complaint relating to a nuisance made to a justice by a sanitary authority. Under this section, therefore, it is competent for an individual to bring the question at once to an issue before the same tribunal that would ultimately try the case if the assistance of the Local Government Board were successfully invoked under Sections 299 or 106, with this great advantage, that the conduct of the case will be in his own hands. In order to counteract any disadvantage that might otherwise result from the fact that an individual complainant has not the power of entry, which, as has been already seen (p. 65), is given to a sanitary authority for the purpose of examining as to the existence of a nuisance on any premises, Section 105 provides that in the cases in which proceedings have been taken under it, the court may, if they think fit, adjourn the hearing or further hearing of the summons, for an examination of the premises where the nuisance is alleged to exist, and may authorise the entry into such premises of any constable or other person for the purposes of such examination. And in order that the individual complainant may be placed at no disadvantage as compared with the sanitary authority in enforcing the execution of any justice's order, the section further provides that the court may authorise any constable or other person to do all necessary acts for executing an order made under it, and to recover the expenses from the person on whom the order is made, in a summary manner. And any constable or other person authorised under this section will have the like powers, and be subject to the like restrictions, as if he were an officer of the local authority authorised under the provisions of the Act relating to nuisances to enter any premises and do any acts thereon. Individuals may therefore be confidently recommended to take proceedings under this section, where they are aggrieved by the neglect of the sanitary authority to take them, and where the existence of a nuisance within the meaning of the Act is clear. Unfortunately, however, it is but seldom that they avail themselves of the power thus given to them, the provisions of the section being far less generally known than they deserve to be.

Proceedings by individuals (Sec. 105).

VIII. HOUSING OF THE POOR

Legislation affecting the housing of the poor.

It will be convenient in the next place to explain the legistation which relates to the housing of the poor in urban and rural sanitary districts. As was pointed out in circulars addressed to urban and rural sanitary authorities on this subject by the President of the Local Government Board on December 2, 1889, very large powers have been conferred on sanitary authorities with a view to enabling them to improve the sanitary condition of the dwellings of the labouring classes; and these powers have been entrusted to the authorities in order that they may be exercised for the protection of the poor, who are unable themselves for the most part to enforce the observance of the laws relating to the public health by their landlords.

Duties of sanitary authority to secure proper sanitary condition of all premises (Housing of the Working Classes Act, 1885, Sec. 7).

Section 7 [1] of the Housing of the Working Classes Act, 1885, which was enacted in accordance with a recommendation contained in the Report of the Royal Commission on the Housing of the Working Classes, contains a declaration, which, although it no doubt applies to premises of every character, would probably never have been placed on the statute book if it had not been for the notoriously insanitary condition of the dwellings in which a large number of the working population of this country are housed. The section in question declares that it shall be the duty of every local authority entrusted with the execution of the laws relating to public health and local government, to put in force from time to time, as occasions may arise, the powers with which they are invested, so as to secure the proper sanitary condition of all premises within the area under their control.

Powers of sanitary authorities under the Public Health Act, 1875.

Some of the most important of these powers have already been explained (pp. 30 to 35 and 41 to 61). Others, which relate especially to the housing of the poor, are contained in the Housing of the Working Classes Act, 1890. But before explaining the contents of that Act, it seems desirable to refer to some of the provisions of the Public Health Act, 1875, and other statutes which it is the duty of every sanitary authority to enforce, and a due compliance with which is usually attended with considerably less expense than the carrying out of improvement schemes or the provision of lodging-houses for the labouring classes under the Housing of the Working Classes Act, 1890.

(*a*) Cellar Dwellings

Prohibition of occupation of cellar-dwellings which might not be so occupied at the passing of the Public Health Act, 1875 (Public Health Act, 1875, Secs. 71, 74).

The first sections in the Public Health Act which relate to the subject, and to which attention has not already been drawn, are those which deal with the occupation of cellar dwellings. Section 71 of the Act absolutely prohibits the separate occupation as a dwelling of any cellar (including in that expression any vault or underground room) built or rebuilt after the passing of the Act, or which was not lawfully so let or occupied at the time of the passing of the Act. For the purposes of this and the other provisions of the Act relating to cellar dwellings, any cellar in which any person passes the night will be deemed to be occupied as a dwelling-house within the meaning of the Act. No

[1] This section remains unrepealed, although the greater part of the Act to which it belongs has been consolidated and amended by the Housing of the Working Classes Act, 1890.

cellar dwelling could be lawfully let or occupied as such at the time of the passing of the Public Health Act, 1875, which was not so let or occupied previously to August 7, 1866 ; [1] and in districts where Section 67 of the Public Health Act, 1848, was in force at the latter date, no cellar dwelling, which was not so occupied or let prior to August 31, 1848,[2] could be lawfully let or occupied at the passing of the Public Health Act, 1875. Consequently the prohibition extends in every urban or rural sanitary district to every cellar dwelling not so let or occupied prior to August 7, 1866, and in some urban sanitary districts to every cellar dwelling not so let or occupied prior to August 31, 1848.

Requisitions which must be complied with in cases where cellar dwellings may lawfully be let or occupied (Sec. 72).

Cellar dwellings, the letting or occupation of which is not prohibited under Section 71, are prohibited by Section 72 from being let or occupied, unless the following requisitions are complied with, that is to say :

Unless the cellar is in every part thereof at least seven feet in height, measured from the floor to the ceiling, and is at least three feet of its height above the surface of the street or ground adjoining or nearest to the same ; and

Unless there is, outside of and adjoining the cellar and extending along the entire frontage thereof, and upwards from six inches below the level of the floor thereof up to the surface of the said street or ground, an open area at least two feet and six inches wide in every part ; and

Unless the cellar is effectually drained by means of a drain, the uppermost part of which is one foot at least below the level of the floor thereof ; and

Unless there is appurtenant to the cellar the use of a water-closet, earth closet or privy, and an ashpit, furnished with proper doors and coverings, according to the provisions [3] of the Public Health Act ; and

Unless the cellar has a fireplace with a proper chimney or flue, and an external window of at least nine superficial feet in area clear of the sash frame, and made to open in a manner approved by the surveyor (except in the case of an inner or back cellar, let or occupied along with a front cellar as part of the same letting or occupation, in which case the external windows may be of any dimensions, not being less than four superficial feet in area clear of the sash frame).

The above requirements are, however, subject to the proviso that in any area adjoining a cellar there may be steps necessary for access to such cellar, if the same be so placed as not to be over, across or opposite to the external window, and so as to allow between every part of such steps and the external wall of the cellar, a clear space of six inches at the least, and that over or across any such area there may be steps necessary for access to any building above the cellar to which such area adjoins, if the same be so placed as not to be over, across, or opposite to any such external window.

Penalty (Sec. 73).

Any person who lets, occupies, or knowingly suffers to be occupied, for hire, or rent, any cellar contrary to the provisions of the Act, will be liable for every such offence to a penalty not exceeding twenty shillings for every day during which the same continues to be so let

[1] See Section 42 of the Sanitary Act, 1866 (29 and 30 Vict. c. 90).
[2] See Section 67 of the Public Health Act, 1848 (11 and 12 Vict. c. 67).
[3] As to these provisions, see p. 47.

or occupied, after notice in writing from the sanitary authority in that behalf.

Power to close cellar dwellings on two convictions (Sec. 75).

Where two convictions against the provisions of any Act relating to the occupation of a cellar as a separate dwelling-place have taken place within three months (whether the persons so convicted were or were not the same) a court of summary jurisdiction may direct the closing of the premises so occupied for such time as it may deem necessary, or may empower the sanitary authority permanently to close the same, and to defray any expenses incurred by them on the execution of this enactment.

(*b*) Common Lodging-Houses

Meaning of the expression 'common lodging-house.'

The next provisions of the Public Health Act which relate to the housing of the poor, deal with the registration and regulation of common lodging-houses. The Act contains no definition of the expression 'common lodging-house,' but it provides that the expression shall, for the purposes of the Act, include in any case in which only part of a house is used as a common lodging-house, the part so used of such house. It appears, however, from the preliminary memorandum to the Model Bye-laws as to common lodging-houses, issued by the Local Government Board, that in the year 1853 the then law officers of the Crown (Sir A. E. Cockburn and Sir W. P. Wood) were consulted by the General Board of Health as to the meaning of the same expression in the Common Lodging-houses Act, 1851, which is now repealed, except so far as it relates to the Metropolitan Police District; and that they advised as follows:—'It may be difficult to give a precise definition of the term "common lodging-house"; but looking to the preamble and the general provisions of the Act, it appears to us to have reference to that class of lodging-houses in which persons of the poorer class are received for short periods, and, though strangers to one another, are allowed to inhabit one common room. We are of opinion that it does not include hotels, inns, public-houses, or lodgings let to the upper and middle classes.'

By that part of the above definition which refers to the persons inhabiting a common lodging-house being 'strangers to one another,' the law officers, in a second opinion, explained that their 'obvious intention was to distinguish lodgers promiscuously brought together from members of one family or household'; and in reply to the question whether lodging-houses otherwise coming within the definition, but let for a week or longer period, would from the latter circumstance be excluded from the operation of the Act, they stated that they were 'of opinion that the period of letting is unimportant in determining whether a lodging-house comes under the Act now in question.'

In the memorandum above referred to the Local Government Board state that so far as the foregoing definition of a common lodging-house rests upon the basis of the habitation of a common room by lodgers who are strangers to one another in the sense of not being members of one family or household, it may be inferred that this characteristic equally distinguishes the common lodging-houses to which the Public Health Act applies; and they point out that such an inference receives support from the terms of Section 87 of the Act.[1]

[1] See p. 75.

In further explanation of the meaning of 'common lodging-house' reference may be made to the case of *Langdon* v. *Broadbent*, 37 L. T., N. S. 434: 42 J. P. 56. A lodging-house, where hawkers and persons of a similar class were received, staying for various periods, having their meals in one room and paying sixpence a night, was held to be a common lodging-house within the meaning of the section, and therefore to require registration. In delivering judgment, Grove, J., said, *inter alia*, 'It appears to have received all comers, the itinerant character of the greater number of the lodgers making it probable that they did not, as a rule, make any long stay at the house. The object of this provision in the Act being to promote health by preventing dirt and overcrowding, the evidence seems to me clearly to show that this is a house to which such a provision is applicable. Of course each case must be decided on its own facts. There may be lodging-houses resorted to by a higher class of persons, to which the term "common lodging-house" would not be applicable.'

Registration of common lodging-houses (Sec. 76).

Section 76 of the Act requires every urban and rural sanitary authority to keep a register, in which shall be entered the names and residences of the keepers[1] of all common lodging-houses within the district of such authority, and the situation of every such house, and the number of persons authorised under the Act by such authority to be received therein.

Lodgers not to be received in unregistered lodging-houses (Sec. 77).

Section 77 provides that a person shall not keep a common lodging-house or receive a lodger therein unless the house is registered in accordance with the provisions of the Act, nor unless his name as the keeper thereof is entered in the register kept under the Act. Provided that when the person so registered dies, his widow or any member of the family may keep the house as a common lodging-house for not more than five weeks after his death without being registered as the keeper thereof.

Common lodging-houses to be inspected and approved before registration (Sec. 78).

A house must not be registered as a common lodging-house until it has been inspected and approved for the purpose by some officer of the sanitary authority; and the sanitary authority may refuse to register as the keeper of a common lodging-house a person who does not produce to them a certificate of character in such form as they direct, signed by three inhabitant householders of the parish respectively rated to the relief of the poor of the parish within which the lodging-house is situate for property of the yearly rateable value of six pounds or upwards.

In the memorandum referred to on page 71, the Local Government Board, speaking of the inspection by the officer of the sanitary authority which is the necessary preliminary to approval of the common lodging-house, say: 'To the thoroughness of this inspection much importance should be attached. It is essential that in all structural details the fitness of the premises should be carefully ascertained

[1] In one of the opinions of the law officers above referred to, in reply to the question who is to be considered the keeper of a common lodging-house where the owner letting the lodgings does not himself reside in the house, the following answer is given:—'We are of opinion that where he neither resides in the house nor exercises any control over its management, but simply receives the rent, he cannot be considered the keeper. . . . But where the owner, though not resident in the house, either in person or through an agent, colourably or otherwise exercises control over its management, we have no doubt that he should be considered the keeper.'

before the house is placed upon the register. The rules which should guide the inspecting officer in his examination of the premises may be thus briefly indicated. The house should (1) possess the conditions of wholesomeness needed for dwelling-houses in general; and (2) it should further have arrangements fitting it for its special purpose of receiving a given number of lodgers. (1) The house should be dry in its foundations and have proper drainage, guttering and spouting, with properly laid and substantial paving to any area or yard abutting on it. Its drains should have their connections properly made, and they should be trapped where necessary, and adequately ventilated. Except the soil pipe from a properly trapped water-closet, there should be no direct communication of the drains with the interior of the house. All waste pipes from sinks, basins and cisterns, should discharge in the open air over gullies outside the house. The soil-pipe should always be efficiently ventilated. The closets and privies and the refuse receptacles of the house should be in proper situations, of proper construction, and adapted to any scavenging arrangements that may be in force in the district. The house should have a water supply of good quality, and if the water be stored in cisterns they should be conveniently placed and of proper construction to prevent any fouling of water. The walls, roof, and floors of the house should be in good repair. Inside walls should not be papered. The rooms and staircases should possess the means of complete ventilation; the windows being of adequate size, able to be opened to their full extent, or, if sash windows, at top and bottom. Any room proposed for registration that has not a chimney should be furnished with a special ventilating opening or shaft; but a room not having a window to the open air, even if it have special means of ventilation, can seldom be proper for registration.

'(2) The numbers for which the house and each sleeping-room may be registered will depend partly upon the dimensions of the rooms and their facilities for ventilation, and partly upon the amount of accommodation of other kinds. In rooms of ordinary construction to be used for sleeping, where there are the usual means of ventilation by windows and chimneys, about 300 cubic feet will be a proper standard of space to secure to each person; but in many rooms it will be right to appoint a larger space, and this can only be determined on inspection of the particular room. The house should possess kitchen and day-room accommodation apart from its bedrooms, and the sufficiency of this will have to be attended to. Rooms that are partially underground may not be improper for day rooms; but should not be registered for use as bedrooms. The amount of water supply, closet or privy accommodation, and the provision of refuse receptacles should be proportionate to the numbers for which the house is to be registered. If the water is not supplied from works with constant service, a quantity should be secured for daily use on a scale, per registered inmate, of not less than ten gallons a day where there are water-closets, and five gallons a day where there are dry closets. For every twenty registered lodgers a separate closet or privy should be required. The washing accommodation should, wherever practicable, be in a special place, and not be in the bedrooms; and the basins for personal washing should be fixed and have water-traps and discharge pipes connected with them.'

No house should be approved by the sanitary authority for regis-

tration as a common lodging-house unless it fulfils the requirements above indicated.

Notice of registration to be affixed to common lodging-houses if the sanitary authority require (Sec. 79).

The keeper [1] of every common lodging-house must, if required in writing by the sanitary authority so to do, affix and keep undefaced and legible a notice with the words 'Registered Common Lodging-house' in some conspicuous place outside of such house. The keeper of any such house who, after requisition in writing from the sanitary authority, refuses or neglects to affix or renew such notice will be liable to a penalty not exceeding five pounds, and to a further penalty of ten shillings for every day that such refusal or neglect continues after conviction.

Powers of sanitary authority to require a proper supply of water for common lodging-houses (Sec. 81).

If the requirements suggested in the memorandum of the Local Government Board, to which reference is made above, have been insisted on by the sanitary authority, no common lodging-house will have been registered which is without a proper water supply. To meet, however, any cases in which such a lodging-house is on the register, and is not properly supplied with water, Section 81 of the Act provides that where it appears to any sanitary authority that a common lodging-house is without a proper supply of water for the use of the lodgers, and that such a supply can be furnished thereto at a reasonable rate, the authority may, by notice in writing, require the owner or keeper of such house within a time specified therein to obtain such supply, and to do all works necessary for that purpose; and if the notice be not complied with accordingly, the sanitary authority may remove such house from the register until it is complied with.

Limewashing of common lodging-houses (Sec. 82).

The keeper [1] of a common lodging-house is required by the Act to limewash the walls and ceilings thereof to the satisfaction of the sanitary authority in the first week of April and October in every year, and if he fails to do so he will be liable to a penalty not exceeding forty shillings. This requirement is, it will be observed, over and above that imposed by Section 46 on the owners and occupiers of houses to whitewash, purify, and cleanse the same on the cases therein specified. As to the latter requirement, see page 60.

Power to order reports from keepers of common lodging-houses receiving vagrants (Sec. 83).

The keeper [1] of a common lodging-house in which beggars or vagrants are received to lodge must from time to time, if required in writing by the sanitary authority so to do, report to the authority, or to such person as they direct, every person who resorted to such house during the preceding day or night, and for that purpose schedules must be furnished by the authority to the person so ordered to report, which schedules he must fill up with the information required and transmit to the sanitary authority.

Keeper of common lodging-houses to give notice of fever and infectious disease (Sec. 84).

The keeper of a common lodging-house [2] must, when a person in such house is ill of fever or any infectious disease, give immediate notice thereof to the medical officer of health of the sanitary authority, and also to the poor-law relieving officer of the union or parish in which the common lodging-house is situated.

Penalty (Public Health Acts Amendment Act, 1890, Sec. 32).

In any urban or rural sanitary district in which Part III. of the Public Health Acts Amendment Act, 1890, has been adopted, any keeper of a common lodging-house who fails to give the notice required

[1] As to who is the keeper of the lodging-house, see note 1 on p. 72.

[2] This requirement is in addition to that imposed by the Infectious Disease (Notification) Act, 1889, in cases where that Act has been adopted by the sanitary authority, see pp. 175 to 179.

by the last-mentioned enactment is liable to a penalty not exceeding 40*s*., and to a daily penalty not exceeding 5*s*.

Free access to be allowed to officers of sanitary authorities (Public Health Act, 1875, Sec. 85).

The keeper of a common lodging-house, and every other person having or acting in the care or management thereof, must at all times, when required by any officer of the sanitary authority, give him free access to such house or any part thereof, and any such keeper or person who refuses such access will be liable to a penalty not exceeding 5*l*.

Any keeper of a common lodging-house who (1) receives any lodger in such house without the same being registered under the Act; or (2) fails to make a report after he has been furnished by the authority with schedules for the purpose in pursuance of the Act; or (3) fails to give the notices required by the Act, where any person has been confined to his bed in such house by fever or other infectious disease, will be liable to a penalty not exceeding 5*l*., and, in the case of a continuing offence, to a further penalty not exceeding 40*s*. for every day during which the offence continues.

Burden of proof that inmates are members of one family (Sec. 87).

In any proceedings under the above provisions, if the inmates of any house or part of a house allege that they are members of the same family, the burden of proving such allegation will lie on the persons making it.

On conviction for third offence court may prohibit keeper of common lodging-house from exercising his calling without a licence from the sanitary authority (Sec. 88).

Where the keeper of a common lodging-house is convicted of a third offence against any of the above provisions, the court before whom the conviction for such third offence takes place may, if it thinks fit, adjudge that he shall not within five years after the conviction, or within such shorter period after the conviction as the court thinks fit, keep a common lodging-house without the previous licence in writing of the sanitary authority, which licence the authority may withhold or grant on such terms and conditions as they think fit.

Bye-laws as to common lodging-houses required to be made by sanitary authorities (Sec. 80).

The above provisions [1] must be supplemented by bye-laws [2] made by the sanitary authority under Section 80 of the Act, which requires every urban and rural sanitary authority to make bye-laws (1) for fixing and from time to time varying the number of lodgers who may be received into a common lodging-house, and for the separation of the sexes therein; and (2) for promoting cleanliness and ventilation in such houses; and (3) for the giving of notices and the taking of precautions in the case of any infectious disease; and (4) generally for the well ordering of such house.

Model bye-laws issued by the Local Government Board (Bye-laws, Nos. 1-17).

The Local Government Board have issued a series of model bye-laws for the purposes of this section. These bye-laws prohibit the reception in any common lodging-house or room therein of a greater number of lodgers than the maximum from time to time fixed by the sanitary authority by a notice served on the keeper of the lodging-house, and provide for the separation of the sexes in rooms used as sleeping apartments. They require every yard or other open space within the curtilage of the premises to be maintained in good order and thoroughly cleansed. They also provide for the cleansing of the floors, windows, fixtures, painted surfaces, bedding, and bedclothes of the lodging-house, the proper supply of basins and towels for the lodgers, the removal of all solid or liquid filth and refuse, and the cleansing of vessels and utensils before ten o'clock every morning; the keeping of the water-closets, drains, earth

[1] These bye-laws have been considered by the legislature as so important from a sanitary point of view that it is not left to the option of the sanitary authority as in the case of other bye-laws whether or not they shall be made.

[2] As to the general provisions of the Act relating to bye-laws, their confirmation, &c., see p. 33.

closets, privies, and ashpits in good order and efficient action and in a wholesome condition; the maintenance of all means of ventilation in proper order; the keeping open for an hour every morning and afternoon of the windows of every room used as a sleeping apartment except in cases where the state of the weather renders it necessary for the windows to be closed or the room is occupied by a sick person; and the exposure to the air for an hour in the morning or afternoon of the bedclothes after they have been used. They require every keeper of a common lodging-house immediately after he has been informed or has ascertained that any lodger is ill of any infectious disease to adopt all such precautions as may be necessary to prevent the spread of the disease, and prohibit him from at any time, while such lodger is suffering from such disease, allowing any other person, except the wife or other relative of the lodger, or a person voluntarily in attendance on him, to occupy the same room. Where in pursuance of the statutory provision [1] on this behalf the sanitary authority order the removal of such lodger to a hospital or other place for the reception of the sick, they require the keeper on being informed of the order to forthwith take all such steps as may be requisite on his part to secure the safe and prompt removal of the lodger in compliance with the order, and in and about such removal to adopt all such precautions as, in accordance with any instructions which he may receive from the medical officer of health, may be most suitable for the circumstances of the case. Where, in consequence of the illness of the lodger, there may be reasonable grounds for apprehending the spread of infection through the admission of lodgers to any room or rooms in such house, or through the admission to such room or rooms of the maximum number of lodgers authorised to be received therein, the bye-laws require the keeper, after being furnished with the necessary directions from the medical officer of health, and until the grounds for apprehending the spread of infection have been removed, to cease to receive any lodger in such room or rooms, or to receive therein such number of lodgers, being less than the maximum number, as the exigencies of the case require. Immediately after the death, removal, or recovery of any lodger who has been ill of infectious disease they require the keeper to give notice thereof to the medical officer of health, and as soon as conveniently may be to cause every part of the room which may have been occupied by the lodger to be thoroughly cleansed and disinfected, and to cause every article therein which may be liable to retain infection to be in like manner cleansed and disinfected unless the sanitary authority have ordered [2] it to be destroyed. They further require the keeper to comply with all instructions of the medical officer of health as to the proper cleansing and disinfection of the room and articles, and to give written notice to the medical officer of health when the same have been thoroughly cleansed and disinfected in accordance with his instructions; and until two days have elapsed from the giving of this notice and until the necessary precautions for preventing the spread of disease have been duly taken, they prohibit the keeper from allowing any other lodger to be received into the room which has been thus exposed to infection.

Steps to be taken where lodger is suffering from infectious disease (Bye-law No. 18).

Bye-laws Nos. 19 25 The remaining model bye-laws which have been issued by the

[1] This provision is contained in Section 124 of the Act, as to which see below, p. 165.

[2] See Section 121 of the Act, p. 162.

Local Government Board as to common lodging-houses prohibit the user or occupation as a sleeping apartment of any room which may be appointed for use as a kitchen or scullery; the occupation of any bed, in a room used as a sleeping apartment used by males above the age of ten years, by more than one such person; and the occupation of any bed by a lodger within eight hours after it has been vacated by the last preceding occupant. They also require the keeper of every common lodging-house to cause every sleeping apartment therein to be furnished with such number of beds and bedsteads and such a supply of bedclothes and necessary utensils as may be sufficient for the requirements of the number of lodgers received in the room, and provide for the exhibition in suitable and conspicuous positions in the rooms of the lodging-house of copies of the bye-laws and placards, stating the maximum number of lodgers who may be received in the room to which the placard relates.

(*c*) Lodging-Houses other than Common Lodging-Houses

Power to make bye-laws as to lodging-houses other than common lodging houses (Public Health Act, 1875, Sec. 90; Housing of the Working Classes Act, 1815, Sec. 8).

With respect to lodging-houses other than common lodging-houses, every urban and rural sanitary authority may make bye-laws [1] (1), for fixing, and from time to time varying the number of persons who may occupy a house or part of a house, which is let in lodgings or occupied by members of more than one family, and for the separation of the sexes in a house so let or occupied: (2) for the registration of houses so let or occupied: (3) for the inspection of such houses: (4) for enforcing drainage, and the provision of privy accommodation for such houses, and for promoting cleanliness and ventilation in such houses: (5) for the cleansing and limewashing at stated times of the premises, and for the paving of the courts and courtyards thereof: and (6) for the giving of notices, and the taking of precautions in case of any infectious disease.

Formerly those powers could only be exercised in districts in which they had been declared by the Local Government Board to be in force by notice published in the 'London Gazette.' But since the passing of the Housing of the Working Classes Act, 1885, this formality has been unnecessary.

Scope of these bye-laws.

In the preliminary memorandum to the Model Bye-laws issued by the Local Government Board dealing with the above matters, it is pointed out that, although in the absence of any express limitation of their scope, bye-laws made under the above powers would apply to every house or part of a house which, not being a common lodging-house, is let in lodgings or occupied by members of more than one family, there are in many districts houses which, though let in lodgings or occupied by members of more than one family, are of such a character as to render it inexpedient, if not absolutely unnecessary, to bring them within the range of bye-laws having for their primary object the regulation of premises, where neglect of sanitary requirements might otherwise ensue. For this reason it is suggested that a clause should be inserted in the bye-laws providing for the exemption of lodging-houses as to which it may be reasonably inferred that such supervision, as elsewhere a sanitary authority alone can efficiently exercise, will in fact be exercised by the lodgers themselves. The exemption clause in

Exemption of certain lodging-houses.

[1] As to the general provisions of the Public Health Act relating to bye-laws, their confirmation, &c., see p. 33.

the model series consists of two parts, one of which relates to furnished, and the other to unfurnished lodgings. It assumes that all houses below a certain rateable value will, if let in lodgings or occupied by members of more than one family, be within the scope of the bye-laws. In the cases of houses of higher rateable value, it confers exemptions if the rent of each lodger exceeds a certain minimum. The Local Government Board leave it to the sanitary authority, when framing bye-laws upon the basis of the model series, to determine what limits of rateable value and rent the circumstances of their district may render it desirable for them to prescribe.

Practically, therefore, although the Act authorises bye-laws to be made with respect to all lodging-houses, they are only made with respect to lodging-houses occupied by persons belonging to the poorer classes, it being assumed that they are unnecessary in the case of lodging-houses occupied by well-to-do persons.

Model Bye-laws issued by the Local Government Board.

The first purposes for which the bye-laws may be made are 'for fixing, and from time to time varying, the number of persons who may occupy the lodging-house or any part thereof,' and for the separation of the sexes therein. In their Model Bye-laws the Local Government Board 'have deemed it inexpedient to provide for a variation of the number of occupants.' They 'have thought it preferable to suggest a few simple rules whereby the number of occupants of rooms used for sleeping, may be determined with reference to a minimum allowance of free air-space for each occupant. They have assumed that before registration, or at some other convenient opportunity, the surveyor or inspector of nuisances will be instructed by the local authority to ascertain the dimensions of the several rooms in each house; and that when the maximum number of inmates has been fixed by the application of the rules embodied in the Model Bye-laws, the local authority will supply the landlord[1] and lodgers with tickets or placards, which may be affixed to the walls or doors, or in some other suitable position, and which will show precisely how many inmates may be received in each sleeping apartment.' The minimum free air-spaces thus allowed are, in the case of rooms used exclusively for sleeping apartments, 300 cubic feet for every person of an age exceeding ten years, and 150 cubic feet for every person of an age not exceeding ten years. Where the room is not used exclusively as a sleeping apartment, these spaces must be increased to 400 and 200 cubic feet respectively. If, in any case, a sanitary authority who may have adopted the Model Bye-laws for fixing the number of occupants should afterwards find that it is practicable to enforce an increased allowance of air-space, the Local Government Board say that they will gladly facilitate the confirmation of new bye-laws for that purpose.

Fixing number of occupants, &c.

The Model Bye-laws contain no provisions for the separation of the sexes in these lodging-houses. This omission, they state, is due to the doubt which they have entertained as to how far this desirable object can be practically attained in view of the ordinary conditions of life in lodgings of the poorer class. Where, however, the sanitary authority are satisfied that a rule on this subject may be enforced without hardship, as, for instance, in cases where it is found that

[1] 'Landlord' in the Model Bye-laws is defined as meaning the person (whatever may be the nature or extent of his interest in the premises) by whom or on whose behalf the house or a part thereof is let in lodgings or for occupation by members of more than one family, or who for the time being receives or is entitled to receive the profits arising from such letting.

individual holdings in the lodging-houses of a district generally comprise two or more rooms, they state that they will readily co-operate with the sanitary authority in framing a bye-law to provide for the separation of the sexes.

Registration of lodging-houses.

The next matter which may be dealt with by these bye-laws is the registration of the lodging-houses. The Model Bye-law on this subject requires the landlord, after a requisition from the sanitary authority to attend, either personally or by his agent, at their office and furnish a statement of the following particulars: (*a*) The total number of rooms in the house; (*b*) the total number of rooms let in lodgings, or occupied by members of more than one family; (*c*) the manner of use of each room; (*d*) the number, age, and sex of the occupants of each room used for sleeping; (*e*) the Christian name and surname of the lessee of each room; and (*f*) the amount of rent or charge payable by each lessee. In explanation of this bye-law, the Local Government Board point out that, whereas a person may not keep a common lodging-house, or receive a lodger therein, unless the house is registered,[1] there is no similar enactment with regard to other lodging-houses. For this reason they consider that in relation to the latter class of houses, the chief practical purpose that a bye-law requiring registration can effect is to aid the sanitary authority by rendering it the duty of the landlord to supply information which may facilitate the subsequent supervision of his premises. And they express the opinon that although the landlord who neglects this duty may become liable to a penalty, the sanitary authority will doubtless find that the reports of their officers, after inspection, will readily supply the particulars necessary for the accurate keeping and correction of the register.

Inspection of lodging-houses.

The model bye-laws as to the inspection of lodging-houses provide for free access being given to the medical officer of health, the inspector of nuisances, and the surveyor, for the purpose of inspecting the interior of the premises, prohibit obstruction, and require the persons in the house to render these officers such assistance as may be reasonably necessary for the purpose of the inspection.

Drainage.

In view of the varying circumstances of the districts to which the bye-laws may be applied, the Local Government Board have been unable to suggest for general use any bye-laws for enforcing drainage. They think that in practice it will be found that the powers which sanitary authorities derive from the statutory provisions [2] on this subject will be sufficient to enable them to enforce drainage without recourse to bye-laws.

Privy accommodation.

The model bye-laws for enforcing privy accommodation require the landlord of the lodging-house to provide such accommodation by means of one or more water-closets, earth closets, or privies, and provide that the number of these conveniences in relation to the greatest number of persons who, subject to the restrictions imposed by any bye-law in this behalf, may at one time occupy rooms in the house as sleeping apartments, shall be in the proportion of not less than one of these conveniences to every twelve persons. They also contain rules similar to those contained in the model bye-laws relating to water-closets, earth closets, and privies, in connection with other buildings.[3]

Other bye laws.

The remaining model bye-laws relating to these lodging-houses are

[1] See p. 72. [2] See especially pp. 30 to 35. [3] See pp. 52 to 54.

too lengthy to be here enumerated. The nature of some of them may be inferred from the model bye-laws relating to common lodging-houses,[1] the cleansing [2] of earth closets, privies, and ashpits belonging to premises. In cases where the lodger is entitled to the exclusive use of any part of the premises, the duty of keeping it clean is imposed on him. In other cases it is imposed on the landlord, who is also required once in every year to cause every part of the premises to be cleansed, and the interior to be limewashed, except where the material of the wall or ceiling is such as to render its being limewashed unsuitable or inexpedient.

(*d*) Seamen's Lodging-Houses

Sanitary authorities in seaport towns may make bye-laws, &c., as to seamen's lodging-houses (Merchant Shipping (Fishing Boats) Act, 1883, Sec. 48).

Section 48 of the Merchant Shipping (Fishing Boats) Act, 1883, enables the sanitary authority within whose district any seaport town is situate, with the sanction of the President of the Board of Trade, from time to time to make, revoke, alter, and amend bye-laws and regulations relating to seamen's lodging-houses in such towns, which are to be binding upon all persons and bodies keeping houses in which seamen are lodged, and the owners thereof, and persons employed therein. Such bye-laws and regulations must (amongst other things) provide for the licensing of seamen's lodging-houses, the inspection of the same, the sanitary conditions of the same, the publication of the fact of a house being licensed, the due execution of the bye-laws and regulations, and the non-obstruction of persons engaged in securing such execution, the preventing of persons not duly licensed holding themselves out as keeping or purporting to keep licensed houses, and the exclusion from licensed houses of persons of improper character, and sufficient penalties for the breach of such bye-laws and regulations, not exceeding in any case 50*l*. All offences under such bye-laws and regulations are to be deemed offences [3] within the Merchant Shipping Acts, 1854 to 1883, and to be punishable accordingly. The bye-laws and regulations are to come into force from a date named therein, and are to be published in the 'London Gazette,' and one newspaper at least circulating in the town, to be designated by the President of the Board of Trade.

If bye-laws not made within a time named, Board of Trade may make them. Order in council may be made requiring seamen's lodging-houses to be licensed.

The same section declares that if the sanitary authority do not, within a time to be from time to time named by the President of the Board of Trade, make, revoke, alter, or amend bye-laws and regulations, the President of the Board of Trade may do so, and that whenever her Majesty, by order in council, to be published in the 'London Gazette,' thinks fit to order that in any seaport town, or in any part thereof, none but persons duly licensed under bye-laws and regulations to be made under the section shall keep seamen's lodging-houses, or let lodgings to seamen from a date therein named, any person acting in contravention of such order shall forfeit a sum not exceeding 100*l*. Any such order in council may be resolved, altered, or amended by any subsequent order.

[1] See pp. 75 to 77.
[2] See p. 57.
[3] These offences are punishable summarily.

(*e*) Exemption of Artisans' Dwellings from the Inhabited House Duty, when Certificates are obtained from Medical Officers of Health

Exemption of certain dwellings from inhabited house duty on certificates of medical officers of health (Customs and Inland Revenue Act, 1890, Sec. 26 (2)).

The landlords of houses let in tenements at low rentals may obtain relief from the inhabited house duty if they keep their houses in proper sanitary condition, and provided with proper accommodation for the inmates. This relief may be secured under Section 26 (2) of the Customs and Inland Revenue Act, 1890, which declares that the assessment to inhabited house duty of any house originally built or adapted by additions or alterations, and used for the sole purpose of providing separate dwellings for persons at rents not exceeding for each dwelling the rate of seven shillings and sixpence a week, and occupied only by persons paying such rents, shall be discharged by the commissioners acting in the execution of the Acts relating to the inhabited house duty, provided that a certificate of the medical officer of health for the district in which the house is situate, or other medical practitioner appointed as in the section mentioned, is produced to them to the effect that the house is so constructed as to afford suitable accommodation for each of the families or persons inhabiting it, and that due provision is made for their sanitary requirements. The same section requires the medical officer of health of a district, on request by the person who would be liable to pay the house duty on any house in the district, if the duty were not so discharged, to examine the house for the purpose of ascertaining whether such a certificate can properly be given; and if the house be constructed so as to afford such accommodation, and due provision be made for the sanitary requirements of the inmates, he must certify the same accordingly.

It is not clear whether the certificates to be given under this section are to be given annually, or from time to time at such reasonable intervals as the commissioners may require. The additional duties which may be imposed by the section on the medical officer of health in some districts are so considerable that the section provides that if the sanitary authority are of opinion that they could not be performed by him without interference with the due performance of his ordinary duties, they may appoint some other legally qualified medical practitioner, having the qualifications[1] required for office of medical officer of health of the district, to make the above examinations and give the certificates. It may be hoped that the section will have a far-reaching effect, and that while on the one hand it will encourage landlords to keep their houses in proper sanitary condition, it will on the other enable the working man to form a correct opinion what houses to frequent and what to avoid.

In the circular addressed by the Local Government Board on September 19, 1890, to medical officers of health, drawing their attention to the provisions of this Act, it is pointed out that the Act does not empower these officers to charge any fee for a certificate under it, and that they are not entitled to any remuneration for the discharge of the duties imposed on them by the Act in addition to the salaries for the time being assigned to them. But by another circular of the same date, addressed to sanitary authorities on the same subject,

[1] As to these qualifications, see pp. 203 and 204.

the Board state that in cases where the remuneration of the medical officer of health is subject to their approval, they will be prepared to assent to a reasonable increase of such remuneration, if the sanitary authority consider that the duties imposed on him by the sanitary statute are sufficiently onerous to entitle him to such increase. At the same time they express their opinion that if the sanitary authority appoint some other medical practitioner to perform the duties in question, it will be competent for them to pay him a suitable salary without any sanction on the part of the Board.

(*f*) The Housing of the Working Classes Act, 1890

The Housing of the Working Classes Act, 1890.

We next come to the powers and duties of urban and rural sanitary authorities under the Housing of the Working Classes Act, 1890, which is one of the most important Acts of Parliament passed of late years in the interests of the public health, and under which every sanitary authority may, if it desires to do so, more or less substantially improve the sanitary condition of the houses of the labouring classes in their district.

Part I.—Unhealthy Areas

Part I. Unhealthy areas.

Part I. of this Act, which deals with unhealthy areas, has consolidated with amendments the more important provisions of the Artisans' and Labourers' Dwellings Improvement Acts, commonly known as Cross's Acts, the object of which was to enable the London County Council, the Commissioners of Sewers of the City of London, and urban sanitary authorities to carry out, by means of provisional orders confirmed by Parliament, improvement schemes for the reconstruction and rearrangement of the streets and houses in unhealthy areas. In ordinary cases the initiative under this part of the Act has to be taken by the medical officer of health,[1] on whom the duty is imposed in every urban[2] sanitary district of making an official representation[3] to the urban sanitary authority whenever he sees cause to make the same, and who, if two or more justices of the peace acting within the district, or twelve or more ratepayers liable to be rated to the local rate, complain to him of the unhealthiness of any area, is required by the Act forthwith to inspect the area, and to make an official representation stating the facts of the case, and whether in his opinion the area, or any part of it, is or is not an unhealthy area.

Official representation of medical officer of health (Sec. 4).

Where any such complaint has been made by the prescribed number of ratepayers, and the medical officer of health has failed to inspect the area or to make an official representation with respect to it, or has made an official representation to the effect that in his opinion it is not an unhealthy area, the ratepayers may appeal to the confirming authority, which in the case of urban sanitary districts is the Local Government Board, and upon their giving security to the

Inquiry on default of medical officer in certain cases (Sec. 16).

[1] In case of the illness or unavoidable absence of a medical officer of health, the sanitary authority may, with the approval of the Local Government Board, appoint a duly qualified medical practitioner, for the period of six months, or any less period to be named in the appointment (Section 26). Anything which, under Part I. or Part II. of the Act, is required to be done by or to a medical officer of health may be done by or to any person authorised to act temporarily as such officer (Section 79).

[2] Part I. of the Act applies to every urban but to no rural sanitary district.

[3] Every representation made by a medical officer of health in pursuance of the Act must be in writing.

satisfaction of the confirming authority for costs, a legally qualified medical practitioner will be appointed by the confirming authority to inspect the area and to make representation to them stating the facts of the case, and whether in his opinion the area or any part thereof is or is not an unhealthy area. The representation so made must be transmitted by the confirming authority to the local authority; and if it states that the area is an unhealthy area, the local authority are directed by the Act to proceed therein in the same manner as if it were an official representation made to them.

Effect of official representation (Sec. 4).

The official representation above referred to is a representation to the effect that within a certain area within the district of the sanitary authority, either any houses, courts, or alleys are unfit for human habitation, or the narrowness, closeness, and bad arrangement or the bad condition of the streets and houses or groups of houses within the area, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defects, or one or more of such causes, are dangerous or injurious to the health of the inhabitants either of the buildings in the area or of the neighbouring buildings; and that the evils connected with such houses, courts, or alleys, and the sanitary defects in the area cannot be effectually remedied otherwise than by an improvement scheme for the rearrangement and reconstruction of the streets and houses within the area, or of some of them.

Duty of sanitary authority when an official representation has been made to them (Sec. 4).

Where such a representation has been made to them, the sanitary authority must take it into consideration, and if satisfied of its truth and of the sufficiency of their resources, they must pass a resolution to the effect that the area is an unhealthy area, and that an improvement scheme ought to be made in respect to it.[1] And after passing the resolution it becomes their duty forthwith to make a scheme for the improvement of the area. Any number of such areas may be included in one improvement scheme.

Prohibition on persons interested voting as members of sanitary authorities (Sec. 88).

No member of the sanitary authority may vote upon any resolution or question which is proposed or arises in pursuance of this part or of Part II. of the Act, if it relates to any dwelling-house, building, or land in which he is beneficially interested. Any person voting in contravention of this prohibition will be liable to a penalty not exceeding 50*l.* for each offence; but the giving of the vote will not invalidate any resolution or proceeding of the authority.

Requisites of improvement scheme (Sec. 6).

The improvement scheme must be accompanied by maps, particulars, and estimates. It may exclude any part of the area in respect of which an official representation is made, or include any neighbouring lands, if the sanitary authority are of opinion that such exclusion is expedient or inclusion is necessary for making their scheme efficient for sanitary purposes; and it may provide for widening any existing approaches to the unhealthy area or otherwise for opening out the same for the purposes of ventilation or health. It must provide such dwelling accommodation, if any, for the working classes displaced by the scheme as is required to comply with the Act, and must also provide for proper sanitary arrangements. It must distinguish the lands proposed to be taken compulsorily, and it may also provide for the scheme or any part thereof being carried out and effected by the person entitled

[1] By a later section of the Act (Section 39 (1) (*b*)) the sanitary authority, if it appears to them that the area is too small to be dealt with as an unhealthy area under this part of the Act, are required to pass a resolution to that effect, and to direct a scheme for reconstruction, to be prepared under Part II. of the Act. As to the provisions of Part II. of the Act, see pp. 89 to 96.

to the first estate of freehold in any property comprised in the scheme, or with the concurrence of such person, under the superintendence and control of the sanitary authority, and upon such terms and conditions to be embodied in the scheme, as may be agreed upon between the sanitary authority and such person.

Accommodation for working classes displaced (Sec. 11 (1)).

In areas outside the city or county of London, the scheme must, if the Local Government Board so require (but it will not be otherwise obligatory on the sanitary authority so to frame their scheme), provide for the accommodation of such number of those persons of the working classes displaced in the area, in suitable dwellings to be erected in such place or places either within or without the area, as the Local Government Board, on a report made by the officer conducting the local inquiry, require. This practically leaves it to that Board to determine whether or not the scheme shall provide substituted accommodation for all or any of the working classes who will be displaced by it.

Appropriation of lands for accommodation of working classes displaced (Sec. 23).

The sanitary authority may, for the purpose of providing accommodation for persons of the working classes displaced by any unprovisional scheme, appropriate any lands for the time being belonging to them which are suitable for the purpose, and may purchase by agreement any such further lands as may be convenient.

Proceedings to be taken for confirmation of improvement schemes (Sec. 7).

Upon the completion of an improvement scheme the sanitary authority must publish, during three consecutive weeks in the month of September, or October, or November, in some one and the same newspaper circulating within the district, an advertisement stating the fact of a scheme having been made, the limits of the area comprised therein, and naming a place within such area or in the vicinity where a copy of the scheme may be seen at all reasonable hours, and during the month next following the month in which such advertisement is published serve a notice on every owner or reputed owner, lessee or reputed lessee, and occupier of any lands proposed to be taken compulsorily,[1] so far as such persons can reasonably be ascertained, stating that such lands are proposed to be taken compulsorily for the purpose of an improvement scheme, and in the case of any owner or reputed owner, lessee or reputed lessee, requiring an answer whether the person so served dissents or not in respect of taking such lands.

Petition for order to confirm scheme (Sec. 8).

When these formalities have been complied with, the sanitary authority must present a petition to the Local Government Board for an order confirming the scheme ; and if that Board think fit to proceed with the case, they must direct a local inquiry to be held in or in the vicinity of the area comprised in the scheme for the purpose of ascertaining the correctness of the official representation and the sufficiency of the scheme, and any local objections to be made to it. After receiving the report made on this inquiry, the Board may make a provisional order declaring the limits of the area to which the scheme relates and authorising the scheme to be carried into execution. This order may be made either absolutely or with such conditions and modifications of the scheme as the Board may think fit, so that no addition be made to the lands proposed in the scheme to be taken compulsorily ; and it will be the duty of the sanitary authority to serve a copy of the order in the manner and upon the persons in which and

Provisional order.

[1] As regards the compulsory purchase of land after the scheme has been confirmed, see pp. 87 and 88.

upon whom notices in respect of lands proposed to be taken compulsorily are required by this part of the Act to be served, except tenants for a month or a less period than a month.

The order will not be of any validity unless and until it has been confirmed by Act of Parliament; and any Act confirming it, with or without modifications, will be a public general Act.

Power of Parliamentary Committee to award costs (Sec. 9).

With a view to prevent on the one hand the submission to Parliament of unreasonable improvement schemes, and on the other the vexatious opposition to the confirmation of reasonable schemes, special provision is made in the Act directing the Parliamentary Committee to whom the Bill for confirming the provisional order is referred to take into consideration the circumstances under which any such Bill is opposed, and whether the opposition was or was not justified by the circumstances, and to award costs accordingly, to be paid by the promoters or opponents of the Bill, as they think fit.

Proceedings on refusal of sanitary authority to make an improvement scheme (Sec. 10).

Where an official representation is made to a sanitary authority with a view to their passing a resolution in favour of an improvement scheme, and they fail to pass any resolution in relation to the representation, or they pass a resolution to the effect that they will not proceed with the scheme, they must as soon as possible send a copy of the official representation, accompanied with their reasons for not acting upon it, to the Local Government Board. Upon the receipt thereof that Board may direct a local inquiry to be held, and a report to be made to them with respect to the correctness of the official representation, and any matters connected with it, on which they may desire to be informed. The Act, however, does not authorise any action to be taken on the information thus obtained.

Execution of scheme by sanitary authority (Sec. 12).

When an improvement scheme has been confirmed by Parliament, it is the duty of the sanitary authority to take steps for purchasing the lands required for it, and otherwise for carrying it into execution as soon as practicable.

The authority may sell or let all or any part of the area comprised in the scheme to any purchasers or lessees for the purpose and under the condition that such purchasers or lessees will, as respects the land so purchased by or leased to them, carry the scheme into execution; and in particular they may insert in any grant or lease of any part of the area provisions binding the grantee or lessee to build thereon as in the grant or lease prescribed, and to maintain and repair the buildings, and prohibiting the division of buildings, and any addition to or alteration of the character of buildings without the consent of the sanitary authority, and for the re-vesting of the land in the sanitary authority, or their re-entry thereon, on breach of any provision in the grant or lease. They may also engage with any body of trustees, society, or person to carry the whole or any part of the scheme into effect upon such terms as they may think expedient, but they may not themselves,[1] without the express approval of the Local Government Board, undertake the rebuilding of the houses or the execution of any part of the scheme, except that they may take down any or all of the buildings upon the area, and clear the whole or any part thereof, and may lay out, form, pave, sewer, and complete all such streets upon the land

[1] This restriction is probably imposed for fear that the sanitary authority might otherwise become involved in large building speculations. But, as will be seen (pp. 96 to 98), urban sanitary authorities which have adopted Part III. of the Act may under these Acts acquire and appropriate lands for the purpose of labourers' lodgings.

purchased by them as they may think fit; and all streets so laid out and completed will thenceforth be public streets, repairable by the same authority as other streets in the district.

But in any grant or lease of any part of the area which may be appropriated by the scheme for the erection of dwellings for the working classes, the sanitary authority must impose suitable conditions and restrictions as to the elevation, size, and design of the houses, and the extent of the accommodation to be afforded thereby, and make due provision for the maintenance of proper sanitary arrangements.

If they erect any dwellings out of funds to be provided under this part of the Act, they must, unless the Local Government Board otherwise determine, sell and dispose of the same within ten years from the time of the completion thereof.

Where they think it expedient so to do, they may, without themselves acquiring the land, or after or subject to their acquiring any part thereof, contract with the person entitled to the first estate of freehold in any land comprised in an improvement scheme for the carrying of the scheme into effect by him in respect of that land.

Power of Local Government Board to complete the scheme on failure by sanitary authority (Sec. 13).

If within five years after the removal of any buildings on the land set aside by any scheme authorised by a confirming Act as sites for working men's dwellings the sanitary authority have failed to sell or let the land for the purposes prescribed by the scheme, or have failed to make arrangements for the erection of the dwellings, the Local Government Board may order the land to be sold by public auction or public tender, with full power to fix a reserve price, subject to the conditions imposed by the scheme, and to any modifications thereof which may be made in pursuance of this part of the Act, and to a special condition on the part of the purchaser to erect upon the land dwellings for the working classes, in accordance with plans to be approved by the sanitary authority, and subject to such other reservations and regulations as the Local Government Board may deem necessary.

Notice to occupiers by placards (Sec. 14).

The sanitary authority must, not less than thirteen weeks before taking any fifteen houses or more, make known their intention to take the same by placards, handbills, or other general notices placed in public view upon or within a reasonable distance of the houses, and they must not take any of the houses until they have obtained a certificate of a justice of the peace that it has been proved to his satisfaction that they have made known in this manner their intention to take the houses.

Compensation to tenants for expenses of removal (Sec. 78).

Where a building or any part of a building purchased by a sanitary authority in pursuance of a scheme under Part I. or Part II.[1] of the Act is not closed by a closing order,[2] and is occupied by any tenant whose contract for tenancy is for less than a year, the sanitary authority, if they require him to give up possession for the purpose of pulling down the building, may make to him a reasonable allowance on account of his expenses in removing.

Modification of scheme (Sec. 15).

Where an improvement can be made in the details of any improvement scheme authorised by Parliament, the confirming authority may permit the sanitary authority to modify any part of the scheme which it may appear inexpedient to carry into execution. In any such case a statement of the modification must be laid before both Houses of Parliament. And if the modification requires a larger public expendi-

[1] As to schemes under Part II. of the Act, see pp. 94 and 95.

[2] For the provisions of the Act relating to closing orders see pp. 89 and 90.

ture than that sanctioned by the former scheme, or the taking of any property otherwise than by agreement, or affects injudicially other property in a manner different from that proposed in the former scheme without the consent of the owner and occupier of the property, it must be made by provisional order confirmed by Parliament in the same manner as the original scheme.

Acquisition of lands for purposes of improvement schemes (Secs. 20–22, and Second Schedule).

The Act contains very exceptional provisions with reference to the acquisition of lands otherwise than by agreement for the purpose of improvement schemes, and the manner in which the value of such lands is to be arrived at. They are very voluminous, and the majority of them can hardly be regarded as coming within the scope of the present work. It may, however, be mentioned here that the estimate of the value of the lands is required to be based upon the fair market value, as estimated at the time of the valuation being made, due regard being had to the nature and then condition of the property, and the probable duration of the buildings in their existing state, and to the state of repair thereof, without any additional allowance in respect of the compulsory purchase of an area or of any part of an area in respect of which an official representation has been made, or of any lands included in a scheme which, in the opinion of the arbitrator, have been so included as falling under the description of property which may be constituted an unhealthy area under this part of the Act; and in such estimate any addition to or improvement of the property made after the date of the publication in pursuance of this part of the Act of an advertisement stating the fact of the improvement scheme having been made must not (unless such addition or improvement was necessary for the maintenance of the property in a proper state of repair) be included, nor in the case of any interest acquired after that date must any separate estimate of the value thereof be made so as to increase the amount of compensation to be paid for the lands. Moreover, evidence will be receivable by the arbitrator to prove—(1) that the rental of any house or premises was enhanced by reason of the same being used for illegal purposes or being so overcrowded as to be dangerous or injurious to the health of the inmates; or (2) that the house or premises are in such a condition as to be a nuisance within the meaning of the Acts relating to nuisances, or are in a state of defective sanitation, or are not in reasonably good repair; or (3) that the house or premises are unfit, and not reasonably capable of being made fit, for human habitation; and, if the arbitrator is satisfied by such evidence, then the compensation—(*a*) must in the first case, so far as it is based on rental, be based on the rental which would have been obtainable if the house or premises were occupied for legal purposes, and only by the number of persons whom the house or premises were under all the circumstances of the case fitted to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates; and (*b*) in the second case be the amount estimated as the value of the house or premises if the nuisance had been abated, or if they had been put into a sanitary condition, or into reasonably good repair, after deducting the estimated expense of abating the nuisance, or putting them into such condition or repair, as the case may be; and (*c*) in the third case be the value of the land, and of the materials of the buildings thereon.

Costs of arbitration (Second Schedule, Rule 28).

Power is also given to the arbitrator to refuse to certify the costs of any person in connection with the arbitration where he considers that

such costs are not properly payable by the sanitary authority, or where he considers that such person neglected, after due notice from the sanitary authority, to deliver to the authority a statement in writing within such time, and containing such particulars respecting the compensation claimed, as would have enabled the authority to make a proper offer of compensation to him before the appointment of the arbitrator. Nor may he certify the costs where he has awarded the same or a less sum than has been offered by the sanitary authority in respect of the claim before his appointment.

Borrowing for the purposes of improvement schemes (Sec. 25)

Urban sanitary authorities may, for the purposes of improvement schemes under this part of the Act, borrow on the security of the local rates in the same manner as they may borrow[1] for the purposes of the Public Health Act. The local rates out of which their net expenses in connection with these schemes are to be defrayed are the same rates[2] as those out of which their general expenses of the execution of the Public Health Act are defrayed.

Expenses (Sec. 24, and First Schedule).

The experience of towns where improvement schemes have been carried out.

There can be no doubt that there are in many large towns unhealthy areas, within the meaning of this part of the Act, in which the carrying out of improvement schemes would be attended with great advantages from a sanitary point of view. So fully was this recognised that when Lord Cross's first Act was passed, in 1875, several of the corporations of the larger boroughs in England and Wales, as well as the Metropolitan Board of Works and the Commissioners of Sewers of the City of London, proceeded to carry out improvement schemes under it. It was then hoped that these schemes would to a great extent be self-supporting, and that the local authorities would be able to recoup themselves the greater part of the expenditure incurred in connection with them by means of the rise which was expected to take place in the value of the land acquired after the existing rookeries had been demolished and the land laid out for building on an improved plan. In the great majority of cases,[3] however, these anticipations were not at once realised, and the immediate result of carrying out the schemes was to raise the rates of the town very considerably. It is possible that in the course of time some of these schemes may result in a profit when the land bought by the local authorities has all been disposed of to purchasers or let on building leases. But in the meantime the ratepayers have been called upon to submit to sacrifices which the inhabitants of other towns have been disinclined to face.

It may not unreasonably be hoped that in the future improvement schemes may be carried out at less expense to the ratepayers than they have been in the past. Every effort has been made in the Acts amending the Act of 1875, and especially in the Housing of the Working Classes Act, to cut down the excessive compensation payable to the owners of insanitary properties, the amount of which has been the main cause of the undue expense of past schemes. The effect of the principal amendments which have thus been made has been given on this and the preceding page. But it is to be feared that the substitution of healthy for unhealthy dwellings on a large scale will

[1] As to these powers of borrowing, see p. 27.

[2] As to these rates, see pp. 27 and 28.

[3] The financial effect of the carrying out of these schemes up to the year 1888 will be found in a parliamentary return moved for by Lord Cross, and published in 1888 (*Parliamentary Paper*, No. 275). In the great majority of cases the actual cost of the scheme was largely in excess of the estimates, both in London and in the provinces.

usually be a costly undertaking, and for this reason sanitary authorities are more likely as a general rule to exercise the powers which have recently been given to them by Part II. of the Housing of the Working Classes Act than to carry out the description of scheme contemplated by Part I. of the Act.

Part II.—Unhealthy Dwelling-houses

Objects of Part II. of the Housing of the Working Classes Act.

Part II. of the Act, which is in force not only in urban, but also in all rural sanitary districts, confers on every sanitary authority very important powers in relation to (1) the closing and demolition of dwelling-houses [1] unfit for human habitation; (2) the pulling down and the acquisition of the sites of houses which, although not themselves unfit for human habitation, render other houses unfit, or prevent proper measures being carried into effect for remedying the sanitary defects of other houses; and (3) the making and carrying out of schemes for the improvement of areas which are too small to be dealt with under Part II. of the Act.

Closing of houses unfit for habitation,

It has already been shown that any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates, whether or not members of one family, and 'any premises in such a state as to be a nuisance or injurious to health' may be dealt with in any urban or rural sanitary district under the provisions of the Public Health Act relating to nuisances, and if in the judgment of the justices the nuisance is such as to render the house unfit for human habitation, they may prohibit its being used for that purpose until it is rendered fit for habitation, in which case it may not be let or inhabited until by a further order the justices have declared that it is habitable (pages 62 and 64). And where two convictions in respect of the overcrowding of the same premises have taken place within a period of three months, whether the persons convicted were or were not the same, the justices may order the closing of the house for such time as they may deem necessary (page 62). These provisions have been found in practice to afford a simple and comparatively inexpensive means of procedure by which a sanitary authority can, in gross cases of sanitary neglect, compel landlords either to make their houses fit for human habitation or to close them, and by which the overcrowding of houses in such a manner as to be dangerous or prejudicial to the health of the inmates can be prevented.

Or overcrowded.

Where the only object of the sanitary authority is to close a house, either for the purpose of inducing the owner to make the necessary improvements in it, or as a deterrent to overcrowding, it will sometimes be better to take the proceedings under the Public Health Act, 1875, than to proceed under the Housing of the Working Classes Act. The definition of 'owner' in the former Act is 'the person for the time being receiving the rack rent of the lands or premises in connection with which the word is used, whether on his own account or on account of some other person, or who would so receive the same if such lands and premises were let at a rack rent.' The proceedings are to be taken against the person by whose act, default, or sufferance the nuisance arises or continues, or, if such person cannot be found, against the owner or occupier. Manifestly, therefore, under this Act

Definition of 'owner' in Public Health Act, 1875, Sec. 4.

[1] 'Dwelling-house' is defined in Section 29 as meaning, unless the context otherwise requires, any inhabited building, and as including any yard, garden, outhouses, and appurtenances belonging thereto or usually enjoyed therewith, and as including the site of the dwelling-house, as thus defined.

the proceedings can be taken against the person responsible. But under Part II. of the Housing of the Working Classes Act this cannot always be done. The proceedings for closing the house can only be taken against the 'owner' as defined for the purposes of that part of the Act or against the occupier; and this definition of 'owner,' though it includes all other persons having saleable interests in the premises, including lessees and mortgagees, excludes persons holding or entitled to the rents and profits of the premises for a term of years of which twenty-one years do not remain unexpired. Consequently no effective [1] proceedings for closing can be taken under Part II. of the Housing of the Working Classes Act against landlords who themselves hold the premises for a term of which less than twenty-one years are unexpired.

Definition of 'owner' in Part II. of Housing of the Working Classes Act, 1890, Sec. 29.

Under which Act the closing order should be obtained.

This consideration should be borne in mind in determining under which Act the sanitary authority should proceed in obtaining a closing order, when all that is required is to prevent the premises from being used for human occupation. Where the authorities propose to go further, and to take steps to obtain the demolition of the house, as this object cannot be attained under the Public Health Act, they have no option but to proceed under the Housing of the Working Classes Act.

Representation by medical officer of health (Sec. 30).

The latter Act makes it the duty of the medical officer of health of every sanitary district to represent to the sanitary authority any dwelling-house which appears to him to be in a state so dangerous or injurious to health as to be unfit for human habitation.

Representation on householders' complaint (Sec. 31).

To meet the case, where he may have overlooked a house in the above state, Section 31 of the Act provides that if in any district any four or more householders living in or near to any street complain in writing to the medical officer of health of that district that any dwelling-house in or near that street is in a condition so dangerous or injurious to health as to be unfit for human habitation, he shall forthwith inspect the same, and transmit to the sanitary authority the complaint, together with his opinion thereon, and, if he is of opinion that the dwelling-house is in the condition alleged, shall represent the same to the sanitary authority, but that the absence of any such complaint shall not excuse him from inspecting any dwelling-house and making a representation thereon.

Appeal to Local Government Board.

If, within three months after receiving the complaint and the opinion or representation of the medical officer, any urban sanitary authority [2] declines or neglects to take any proceedings to put this part of the Act in force, the householders who signed the complaint may petition the Local Government Board for an inquiry, and the Board, after causing an inquiry to be held, may order the urban sanitary authority to proceed, and such order will be binding on the authority.

Duty of sanitary authority to take proceedings for obtaining a closing order (Sec. 32).

The Act further makes it the duty of every sanitary authority to cause to be made from time to time inspection of their district, with a view to ascertain whether any dwelling-house therein is in a state so dangerous or injurious to health as to be unfit for human habitation, and if, on the representation of the medical officer, or of any officer of such authority, or information given, any dwelling-house appears to them to be in such state, to forthwith take proceedings against the owner [3] or occupier for closing the dwelling-house. Upon

[1] See *Osborne* v. *Skinners' Company*, 39 W. R. 715.

[2] As to the powers of county councils to act on the default of rural sanitary authorities, see pp. 93 and 94.

[3] As to the definition of 'owner,' see note 2, p. 19.

such proceedings a court of summary jurisdiction may impose a penalty not exceeding 20*l.*, and make a closing order,[1] i.e. an order prohibiting the use of the premises for human habitation; and when the order has been made, the sanitary authority must serve notice of it on every occupying tenant of the dwelling-house; and within such period as is specified in the notice, not being less than seven days from the service, the order must be obeyed by him, and he and his family must cease to inhabit the dwelling-house, and in default he will be liable to a penalty not exceeding 20*s.* a day during his disobedience to the order. But the sanitary authority may make to him such reasonable allowance on account of his expenses in removing as may have been authorised by the court making the closing order, and the amount of this allowance will be a court debt due from the owner [2] of the dwelling-house to the sanitary authority, and will be recoverable summarily.

Allowance to evicted tenant.

Where a closing order has been made in respect of any dwelling-house, and not being determined by a subsequent order declaring the dwelling-house habitable, after it has been rendered fit for human habitation, the sanitary authority, if of opinion that the dwelling-house has not been rendered fit for human habitation, and that the necessary steps[3] are not being taken with all due diligence to render it so fit, and that the continuance of any building being or being part of the dwelling-house is dangerous or injurious to the health of the public or of the inhabitants of the neighbouring dwelling-houses, must pass a resolution that it is expedient to order the demolition of the building. Notice of this resolution must be served on the owner [2] of the dwelling-house specifying the time, which must not be less than one month after the service of the notice, and the place appointed by the sanitary authority for the further consideration of the resolution, and any owner[2] of the dwelling-house will be at liberty to attend and state his objections to the demolition.

Demolition order (Sec. 33).

If upon the consideration of the resolution and the objections the sanitary authority decide that it is expedient so to do, then, unless an owner[3] undertakes to execute forthwith the works necessary to render the dwelling-house fit for human habitation, they must order[4] the demolition of the building.

If an owner[2] undertakes to execute the said works, the sanitary authority may order the execution of the works, within such reasonable time as is specified in the order,[4] and if the works are not completed within that time or any extended time allowed by the authority or a court of summary jurisdiction, the authority must order the demolition of the building.

Where an order for the demolition of a building has been made, the owner must within three months after service of the order proceed to take down and remove the building; and if he fails to do so, the sanitary authority must take down and remove the building and sell the materials, and after deducting the expenses incident to such taking down and removal, pay over the balance of money (if any) to the owner.

Execution of demolition order (Sec. 34).

[1] This order is subject to an appeal to Quarter Sessions in the same manner as other orders for the abatement of nuisances under the Public Health Act.

[2] For the definition of owner, see note 2, p. 19.

[3] Provision is made in the Act (Section 47 (2)), by which any owner can, on applying to the court, be authorised to take these steps.

[4] This and any other order under this part of the Act is subject to an appeal by any person aggrieved to Quarter Sessions. See Section 35 of the Act.

Where a building has been so taken down and removed, no house or other building or erection which will be dangerous or injurious to health may be erected on all or any part of the site; and if any such house, building, or erection is erected thereon, the sanitary authority may at any time order the owner to abate the same, and, in the event of non-compliance with the order, may at the expense of the owner abate or alter the same.

Obstructive buildings (Sec. 38).

The next class of buildings that may be dealt with under this part of the Act are buildings which, although not in themselves unfit for human habitation, are so situate that by reason of their proximity to or contact with any other buildings they cause one of the following effects; that is to say:—

(*a*) They stop ventilation, or otherwise make or conduce to make such other buildings to be in a condition unfit for human habitation or dangerous or injurious to health; or

(*b*) They prevent proper measures from being carried into effect for remedying any nuisance injurious to health or other evils complained of in respect of such other buildings. These buildings are referred to in the Act as obstructive buildings.

Duty of medical officer of health with respect to obstructive buildings.

It is the duty of a medical officer of health, if he finds any such building in his district (and it is needless to say that such buildings abound in many districts) to represent to the sanitary authority the particulars relating to it, and to state that in his opinion it is expedient that it should be pulled down.

Representation by householders. Duty of sanitary authority on receiving representation.

Any four or more inhabitant householders may make a similar representation to the sanitary authority. It is the duty of the sanitary authority, on receiving either of the above representations, to cause a report to be made to them respecting the circumstances of the building and the cost of pulling down the building and acquiring the land, and on receiving such report to take into consideration the representation and report; and if they decide to proceed they must cause a copy of both the representation and report to be given to the owner of the lands on which the obstructive building stands, with notice of the time and place appointed by the authority for their consideration; and the owner will be at liberty to attend and state his objections, and after hearing such objections the authority must make an order either allowing the objection or directing that such obstructive building shall be pulled down. The order, like the other orders of the sanitary authority under this part of the Act, is subject to an appeal to quarter sessions.

Compulsory purchase of site unless owner pulls down obstructive building.

When such an order has been made and no appeal is made against it, or the appeal either fails or is abandoned, the sanitary authority may compulsorily purchase the lands on which the obstructive building is erected at any time within one year from the date of the order, or, if it was appealed against, from the date of its confirmation, unless within one month after the notice to purchase the site has been served on him the owner declares that he desires to retain the site and undertakes either to pull down the obstructive building or to permit the sanitary authority to pull it down, in which case he will retain the site and receive compensation from the sanitary authority for pulling down the building.

Compensation.

The amount of such compensation, and of the compensation to be

paid when the sanitary authority buy the site, will, in case of difference, be settled by arbitration.

Where the sanitary authority purchase land compulsorily under the above powers, it will not be competent for the owner of a house or manufactory to insist on his entire holding being taken where part only is proposed to be taken as obstructive, and where such part proposed to be taken can, in the opinion of the arbitrator to whom the question of disputed compensation is submitted, be severed from the remainder of the house or manufactory without material detriment thereto ; but compensation may be awarded in respect of the severance of the part so proposed to be taken in addition to the value of that part.

Where in the opinion of the arbitrator the demolition of an obstructive building adds to the value of other buildings for the benefit of which it is demolished, the arbitrator must apportion so much of the compensation to be paid for the demolition of the obstructive building as may be equal to the increase in value of the other buildings amongst such other buildings respectively, and the amount apportioned to each such other building in respect of its increase in value by reason of the demolition of such obstructive building will be deemed to be private improvement expenses incurred by the sanitary authority in respect of such building, and the sanitary authority may, for the purpose of defraying such expenses, make and levy improvement rates on the occupier of such premises accordingly. In this case, therefore, Parliament has clearly recognised the fairness of applying the 'betterment' principle.

No obstructive building to be erected on the site when retained by owner.

Where the owner retains the site or any part thereof, no house or other building or erection which will be dangerous or injurious to health, or which will be an obstructive building within the meaning of this section, may be erected thereon ; and if any such house, building, or erection is so erected, the sanitary authority may at any time order the owner to abate or alter it, and, in the event of non-compliance with such order, may, at the expense of the owner thereof, abate or alter the same.

Site to be kept wholly or partly as open space, if purchased by sanitary authority.

Where the lands are purchased by the sanitary authority, the obstructive building, or so much of it as is obstructive, must be pulled down, and the authority must keep as an open space either the whole site or so much of it as may be required to be kept open for the purpose of remedying the nuisance or other evils caused by the obstructive building. They may, however, with the assent of the Local Government Board, and upon such terms as that Board may think expedient, sell such portion of the site as is not required for this purpose. They may also, if they so think fit, dedicate the site or any part of it as a highway or other public place.

Powers of county council on default of rural sanitary authority (Sec. 45).

In order to secure the due execution of the important powers given by the Act to the sanitary authorities in rural districts as regards the closing and demolition of houses unfit for human habitation and the pulling down of obstructive buildings, their exercise has been placed under the supervision of the county council, who, in the default of any rural sanitary authority, are themselves authorised in certain cases to institute the necessary proceedings at the cost of the authority. For this purpose the rural sanitary authority are required to forward forthwith to the county council a copy of every representation, complaint, or information made to them by the medical officer of

health or any inhabitant householders respecting any dwelling-house unfit for human habitation, or any obstructive building, and a copy of any closing order made as respects any dwelling-house, and also to report to the county council such particulars as they may require respecting any proceedings taken by the authority with reference to such representation, complaint, information, or dwelling-house.

When the county council are of opinion that proceedings for a closing order as respects any dwelling-house ought to be instituted, or that an order ought to be made for the demolition of any buildings forming or forming part of any dwelling-house as to which a closing order has been made, or that an order ought to be made for pulling down an obstructive building specified in any representation under this part of the Act; and, after reasonable notice, not being less than one month, of such opinion has been given in writing to the rural sanitary authority, consider that such authority have failed to institute or properly prosecute proceedings, or to make the order for demolition, or to take steps for pulling down an obstructive building, they may pass a resolution to that effect, and thereupon the powers of the authority as respects the dwelling-house and building under this part of this Act (otherwise than in respect of a scheme [1]) will be vested in the county council, and if a closing order or an order for demolition or for pulling down an obstructive building is made, and not disallowed on appeal, the expenses of the council incurred as respects the dwelling-house and building, including any compensation paid, will be a simple contract debt to the council from the authority.

Schemes for improvement of smaller areas than can be dealt with under Part I. of the Act (Sec. 39).

As has already been indicated (page 89), this part of the Act enables sanitary authorities to deal not only with individual cases of dwelling-houses unfit for human habitation and obstructive buildings, but also to make and carry out schemes for the improvement of areas which are too small to be dealt with under Part I. of the Act. These schemes may be prepared in any of the following cases:—

(*a*) where an order for the demolition of a building has been made in pursuance of this part of the Act, and it appears to the sanitary authority that it would be beneficial to the inhabitants of the neighbouring dwelling-houses if the area of the dwelling-house of which such building forms part were used for all or any of the following purposes:

(i) dedicated as a highway or open space, or
(ii) appropriated, sold, or let for the erection of dwellings for the working classes, or
(iii) exchanged with other neighbouring land which is more suitable for the erection of such dwellings, and on exchange will be appropriated, sold, or let for such erection; or

(*b*) where it appears to the authority that the closeness, narrowness, and bad arrangement or bad condition of any buildings, or the want of light, air, ventilation, or proper conveniences, or any other sanitary defect in any buildings, is dangerous or prejudicial to the health of the inhabitants either of the buildings themselves or of the neighbouring buildings, and that the demolition or the reconstruction and re-arrangement of the buildings or of some of them is necessary to remedy the above evils, and that the area comprising them and the

[1] As to the powers of the authority under this part of the Act in respect of schemes, see below on this and the following pages.

yards, outhouses, and appurtenances, and the site thereof, is too small to be dealt with as an unhealthy area under Part I. of the Act.

In any of these cases it is the duty of the sanitary authority to pass a resolution to the above effect, and to direct a scheme to be prepared for the improvement of the area.

Difference between these schemes and schemes under Part I.

The statutory provisions relating to the preparation, confirmation, and carrying into effect of these schemes are less elaborate than those relating to schemes under Part I. of the Act. No preliminary official representations and advertisements are required with respect to them. Notice of them may at any time after their preparation (and not merely in certain specified months of the year [1]) be served on the owners or reputed owners, lessees or reputed lessees, and occupiers, and when they have been sanctioned by the Local Government Board either with or without modifications, they will require no confirmation by Parliament if the sanitary authority are able to agree for the purchase of the whole area comprised in any scheme. Where no such agreement can be made, notice of the order of the Local Government Board sanctioning the scheme must be published in the 'London Gazette,' and be served on the owners of every part of the area, any one of whom may, within two months after such publication, petition that Board against the order, and the order will only require to be confirmed by Parliament in cases where a petition is presented and not withdrawn. In other cases, where the two months have expired, the Local Government Board must confirm the order, which will thereupon come into operation and have effect as if it were enacted in the Act.

Incorporation of Lands Clauses Acts

The order may incorporate the provisions of the Lands Clauses Acts; and if the area is compulsorily purchased, it must be so purchased within three years after the confirmation of the order. The amount of compensation in case of difference must be settled by arbitration in manner provided by this part of the Act, as to which see below.

Accommodation of persons of working classes displaced (Sec. 40).

In these orders the Local Government Board must require the insertion of such provisions, if any, for the dwelling accommodation of persons of the working classes who may be displaced as seem to them to be required by the circumstances.

Settlement of compensation (Sec. 41).

In all cases in which the amount of any compensation is, in pursuance of this part of the Act, to be settled by arbitration, either in connection with the pulling down of an obstructive building and the acquisition of its site, or in the carrying out of an improvement scheme, it is to be settled by an arbitrator who is to be appointed and who will be removable by the Local Government Board, and who in his estimate is to have due regard to the nature and the condition of the property, and the probable duration of the buildings in their existing state, and to the state of their repair, but is to give no additional allowance in respect of compulsory purchase. He is, however, to have regard to, and make an allowance in respect of, any increased value which in his opinion will be given to other dwelling-houses of the same owner by the alteration or demolition of any building by the sanitary authority.

Evidence will be receivable to prove that the rental of the dwelling-house was enhanced by reason of the same being used for illegal purposes, or being so overcrowded as to be dangerous or injurious to

[1] Under Part I. these notices can only be served in certain months of the year. See p. 84.

the health of the inmates, or that the dwelling-house is in a state of defective sanitation or is not in reasonably good repair, or that it is unfit and not reasonably capable of being made fit for human habitation; and if the arbitrator is satisfied by this evidence, he is to estimate the compensation on the same principles [1] as those which regulate the assessment in similar cases of compensation payable in respect of property acquired for the purpose of improvement schemes under Part I. of the Act.

Expenses (Secs. 42, 43).

The expenses of urban sanitary authorities in the execution of this part of the Act will be borne out of the rates, or moneys borrowed on the same security as those[2] applicable for the purposes of Part I. of the Act. The expenses of rural sanitary authorities, other than those incurred in and incidental to proceedings for obtaining a closing order, which will be general [2] expenses, must be charged as special expenses on the contributory place in respect of which they are incurred. The borrowing powers of the Public Health Acts are made applicable.

Annual returns to Local Government Board (Sec. 44).

Every sanitary authority must every year present to the Local Government Board, in such form as that Board may direct, an account of what has been done, and of all moneys received and paid by them during the previous year, with a view to carrying into effect the purposes of this part of the Act.

Part III.—Working-Class Lodging-Houses

Provision of lodging-houses for the working classes (Secs. 53–71).

Part III. of the Act has consolidated with certain amendments the Labouring Classes Lodging-Houses Acts, 1851 to 1885, commonly known as Shaftesbury's Acts. This part of the Act will not be in force in any sanitary district until it has been adopted by the sanitary authority; and in rural sanitary districts it can only be adopted after a local inquiry by the county council, and a certificate that accommodation for the housing of the poor is necessary, that there is no probability that such accommodation will be provided without the execution of this part of the Act, and that, having regard to the liability which will be incurred by the rates, it is, under all the circumstances, prudent for the authority to undertake the provision of such accommodation. Where this part of the Act has been adopted, it enables the sanitary authority to provide 'lodging-houses for the working classes,' which expression includes separate houses or cottages for the working classes, whether containing one or several tenements. For this purpose it empowers the authority to purchase or rent land, and in urban sanitary districts, with the consent of the Local Government Board, and in rural sanitary districts, with the consent of the county council, to appropriate any lands for the time being vested in them or at their disposal, and on such land to erect any buildings suitable for lodging-houses for the working classes, and to convert any buildings into lodging-houses for those classes, and to alter, enlarge, repair, and improve the buildings, and to fit up, furnish, and supply them with the requisite furniture, fittings, and conveniences. It also enables the sanitary authority to contract for the purchase or lease of any lodging-houses for the working classes already or hereafter to be built or provided; and in urban sanitary districts, with the consent of the Local

Restrictions on adoption in rural districts.

Powers of sanitary authority after adoption (Sec. 56).

Acquisition and appropriation of land and lodging-houses (Sec. 58).

Erection of lodging-houses (Sec. 59).

[1] See p. 87. [2] As to general and special expenses, see p. 29.

Government Board, and in rural sanitary districts, with the consent of the county council, to appropriate the same for the purposes of this part of the Act, and, with the same consent, to sell any land vested in them for these purposes, and to apply the proceeds in or towards the purchase of other more suitable lands. The general management, regulation, and control of lodging-houses thus established or acquired by a sanitary authority will be vested in and exercised by the authority, who may make such reasonable charges for the tenancy or occupation of the lodging-houses as they may determine by regulations.

Sale of lands (Sec. 60).

Management of lodging-houses (Sec. 61).

The sanitary authority may also make bye-laws [1] for the management, use, and regulation of the lodging-houses, and it will be obligatory on them, except in the case of lodging-houses occupied as separate dwellings, to make sufficient provision for the following purposes, viz. :—

Bye-laws for the regulation, &c., of lodging-houses (Sec. 62).

'For securing that the lodging-houses shall be under the management and control of the officers, servants, or others appointed or employed in that behalf by the authority.

'For securing the due separation at night of men and boys above eight years old from women and girls.

'For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour and nuisances.

'For determining the duties of the officers, servants, and others appointed by the authority.'

A printed copy or sufficient abstract of the bye-laws relating to the management, use, and regulation of the lodging-houses must be put up and at all times kept in every room therein.

Any person who, or whose wife or husband, at any time while such person is a tenant or occupier of any such lodging-house, or any part of such a lodging-house, receives any relief under the Acts relating to the relief of the poor other than relief granted on account only of accident or temporary illness, will thereupon be disqualified for continuing to be such a tenant or occupier.

Disqualification of tenants receiving parochial relief (Sec. 63).

Lodging-houses established in any district under this part of the Act will be at all times open to the inspection of the sanitary authority of that district, or of any officer from time to time authorised by such authority.

Inspection of lodging-houses (Sec. 70).

The expenses of urban sanitary authorities in the execution of this part of the Act will be borne in the same manner as their expenses [2] under Part II. Those of rural sanitary authorities are to be defrayed as special [2] expenses incurred in the execution of the Public Health Act, 1875 ; but except in cases where they are by the order of the county council to be borne by one contributory place only, they are to be deemed to be incurred for the common benefit of all the contributory places liable to bear them. These arrangements are, however, subject to this qualification, that if on the application of the rural sanitary authority it is so declared at the time of the publication of the certificate by the county council who published the same, then the expenses of the authority are to be defrayed as general [3] expenses in the execution of the Public Health Acts, and if they are not to be borne by the whole of the district they will be paid out of a common fund to be raised in manner provided by the Public Health Act, 1875, but as if

Expenses (Sec. 65).

[1] As to the making, confirmation, &c., of these bye-laws, see note 2, p. 33.

[2] See p. 96.

[3] As to the difference in the incidence of charge of general and special expenses, see p. 29.

the contributory places, which are to bear the expenses, constituted the whole of the district.

Extent to which this part of the Act has been operative.

Notwithstanding the notoriously bad condition of the houses of the working classes in many parts of the country, very little has hitherto been done by sanitary authorities under Part III. of the Act or under the Acts which it has consolidated. The first of these Acts was passed as far back as 1851, at the instance of Lord Shaftesbury; and it was the earliest Act of Parliament which dealt solely with the question of the housing of the poor. It was amended by two Acts passed in 1866 and 1867, and again by the Housing of the Working Classes Act, 1885, in pursuance of the recommendations of the Royal Commission on the Housing of the Working Classes. It appears from the report of the Commission that up to the date of the report these Acts had been an absolute dead letter, no single case being known of their having been adopted, or of any effort having been made on the part of philanthropic persons to procure their adoption in any locality. At the same time their author remained of opinion, when giving his evidence before the Commission, that if they had been put into operation they would have remedied the greater part of the existing evils in connection with the housing of the poor. Lord Shaftesbury further stated that prior to 1884 he did not believe that there was any man living besides himself who knew of their existence. He attributed their failure to the fact that when they were passed 'public opinion was not excited, and the general feeling was not moved, and nobody cared at all about them.' That was, in his opinion, the reason why they were not put in operation. The Royal Commission were apparently impressed with his view that the Acts were likely to be useful; and they recommended that a further trial should be given to them, and that they should be amended so as to make them effective. These recommendations were adopted, but the result has not been very encouraging. They have, however, been put in force to some extent in Liverpool, Birmingham, and Salford.

(*g*) The Canal Boats Acts, 1877 and 1884

Object of the Canal Boats Acts.

So far, the legislation relating to the housing of the poor, to which attention has been drawn, has dealt solely with the requirements of stationary populations. Considerable numbers of the working classes are, however, employed in occupations which render it necessary for them to live in movable dwellings. Of these, the larger number belong to what is commonly known as the canal population.

The condition of this population has been materially improved of late years by the operation of the Canal Boats Acts, which provide for the registration, inspection, and regulation of canal boats used as dwellings. It is the duty of every registration or sanitary authority within whose district any canal or any part of a canal is situate to enforce within their district the provisions of these Acts, and the regulations[1] made thereunder by the Local Government Board and the Education Department, and to report to the Local Government Board within twenty-one days after December 31 in every year as to the execution of the Acts and regulations, and as to the steps taken by the authority during the year to give effect to them.

Duty of enforcing these Acts imposed on registration and sanitary authorities (Canal Boats Act, 1884, Secs. 3 and 5).

For the purposes of these Acts the expression 'canal' includes any

[1] As to these regulations see pp. 100 to 104.

river, inland navigation, lake or water, being within the body of any county, whether it is or is not within the ebb and flow of the tide; and the expression 'canal boat' means any vessel, however propelled, which is used for the conveyance of goods along a canal as above defined, and which is not a ship duly registered under the Merchant Shipping Act, 1854, and the Acts amending the same. If it at any time appears to the Local Government Board, on the representation of any registration or sanitary authority, or of any inspector [1] appointed under the Canal Boats Acts, that these Acts ought to apply to any vessel or classes of vessels which would be within the above definition of 'canal boat' if it or they were not registered under the Merchant Shipping Acts, the Local Government Board may declare that the Canal Boats Acts shall apply to such vessel or class of vessels, and thereupon the same will be deemed to be a canal boat or canal boats within the meaning of these Acts.

Definitions of 'canal' and 'canal boat.' (Canal Boats Act, 1877, Sec. 14; Canal Boats Act, 1884, Sec. 10).

For the purpose of the registration of canal boats the registration authority will be such one or more of the sanitary authorities having districts abutting on a canal as may from time to time be prescribed by regulations of the Local Government Board. The Local Government Board by their orders have from time to time constituted registration authorities for the purposes of these Acts. The orders at present in force by which these authorities are constituted are three in number, and are dated respectively May 17, 1878, June 26, 1879, and June 7, 1887.

Registration authorities (Sec. 7).

No canal boat may be used as a dwelling unless it has been registered in accordance with the Acts. The owner [2] of a canal boat may register it with any registration [3] authority having a district abutting on the canal on which such boat is accustomed or intended to ply as a dwelling for such number of persons of the specified age and sex as may be allowed under the provisions of the Acts; and the boat may be used as a dwelling only for the number of persons of the age and sex for which it is registered. If a canal boat is used in contravention of the Acts, the master [4] of the boat, and also the owner, if he is in fault, will be each liable to a fine not exceeding 20*s*. for each occasion on which the boat is so used.

Unregistered canal boats not to be used as dwellings. Registration, &c., of canal boats. Penalties (Secs. 1 and 7).

Upon the registry of a canal boat the registration authority must give to the owner two certificates of registry identifying the owner and the boat, and stating the place to which the boat is registered as belonging, and the number, age, and sex of the persons allowed to dwell in the boat, and such other particulars [5] as may be provided by regulations under the Acts or may seem fit to the registration authority, and the master must have the care of one of the certificates.

Certificate of registry and lettering and numbering of boat (Sec. 3).

[1] See p. 105.

[2] 'Owner' is defined by Section 14 of the Act of 1877 as including a person who, though only the hirer of a canal boat, appoints the master and other persons working such boat.

[3] In their circular of July 22, 1878, commenting on this provision, the Local Government Board say: 'The boat owners have the choice of several authorities with whom to register, and the Board consider that registration of each boat with some one authority will be a sufficient compliance with the requirements of the Act, whether the boat for which registration is sought be accustomed or intended to ply on one or more canals. Where the boat passes from the canal on which the district of the authority with whom it has been registered abuts, its original registry will be recognised as operative on other canals whereon it may ply.'

[4] 'Master' is defined by the same section as meaning, in relation to a canal boat, the person for the time being having command or charge of the boat.

[5] As regards these particulars, see p. 103.

Lettering, numbering, &c., to be visible from both sides of boat (Canal Boats Act, 1884, Sec. 7).

Every canal boat when registered must be lettered, marked, and numbered in some conspicuous manner (as directed [1] by the regulations made under the Acts), and such lettering, number marking, and numbering must include the word 'registered,' and the name of the place to which the boat is registered as belonging, and the registered number. A boat will not be deemed to be lettered, marked, and numbered in conformity with these requirements unless it is so lettered, marked, and numbered on both sides of it, or in some suitable position on its stern, so that the lettering, marking, and numbering may be plainly visible from both sides of the boat. Any boat not lettered, marked, and numbered in accordance with these requirements, or having the letter, mark, or number altered, defaced, or obliterated, will be deemed for the purposes of the Acts to be an unregistered boat.

Certificate made void by structural alterations (Sec. 1).

A certificate of registration will cease to be in force in the event of any structural alterations having been made in the canal boat affecting the conditions upon which the certificate of registration has been obtained.

Regulations for registration and marking of canal boats, fixing number of persons allowed to dwell therein, &c. (Sec. 2).

The Local Government Board are required by Section 2 of the Act of 1877 to make, and are by the same section empowered from time to time to revoke and vary, regulations—

(1) For the registration of canal boats under the Act, including certificates of registration and the fees in connection with such registration ; and

(2) For the lettering, marking, and numbering of such boats ; and

(3) For fixing the number, age, and sex of the persons who may be allowed to dwell in a canal boat, having regard to the cubic space, ventilation, provision for the separation of the sexes, general healthiness, and convenience of accommodation of the boat ; and

(4) For promoting cleanliness in, and providing for the habitable condition of, canal boats ; and

(5) For preventing the spread of infectious disease by canal boats. The registration authority are required to register every canal boat which conforms to the conditions of registration provided by these regulations for the number of persons allowed by the regulations to dwell therein.

Regulations to be laid before Parliament (Canal Boats Act, 1877, Sec. 9).

An order of the Local Government Board making, revoking, or varying any regulation in pursuance of these Acts will not come into force until it has lain in a complete form as settled and approved by the Department for 40 days before both Houses of Parliament during the session of Parliament.

Regulations made by Local Government Board by order of March 20, 1878.

In pursuance of the above powers the Local Government Board on March 20, 1878, made an order prescribing a series of regulations which are still in force with respect to the several matters mentioned in Section 2 of the Act of 1877.

Registration, certificates, fees, &c.

Part I. of this order contains regulations for registration. It requires the application for registration to be made by the owner, and provides that in making the application he should inform the registration authority of a time and place at which the boat may be examined with a view to registration, and that he shall also furnish such other information [2] as the registration authority may require in relation

[1] As regards these directions, see p. 101.

[2] In the circular above referred to the Local Government Board suggest that delay in the preliminary arrangements may frequently be obviated if the authority to whom the owner applies for registration furnish him with a printed statement

thereto. It also requires the registration authority from time to time to appoint or employ a fit and proper person to examine and report upon the canal boats whose owners apply for registration, and enables them to pay him a reasonable remuneration for such examination and report. It makes it the duty of this person to ascertain and duly record with respect to the boat and its cabin or cabins the particulars requisite to enable him to furnish the information to be set forth in a report which must be in a form [1] in the schedule to the regulations, and must be submitted to the registration authority at their next ordinary meeting or at a special meeting to be called for the purpose.

Examining officer and his report.

The regulations require the following conditions to be complied with before a canal boat may be registered, viz. :—

Conditions to be complied with before boat may be registered.

'(*a*) It must contain a cabin or cabins, clean, in good repair, and so constructed as to be capable of being maintained at all times weatherproof, dry, and clean.

'(*b*) The interior of any after cabin intended to be used as a dwelling house must contain not less than 180 cubic feet of free air space, and the interior of any fore cabin, if intended to be so used, must contain not less than 80 cubic feet of free air space.

'(*c*) Every cabin, if intended to be used as a dwelling, must be provided with sufficient means for the removal of foul and the admission of fresh air, exclusive of the door or doors and of any opening therein.

'(*d*) Every cabin, if intended to be used as a dwelling, must be so constructed or fitted as to provide adequate and convenient sleeping accommodation for the persons allowed by these regulations to dwell in the boat.

'(*e*) If the boat be a "narrow" [2] boat, every cabin intended to be used as a dwelling must be so constructed or fitted that there shall be no locker or cupboard obstructing the free passage from the door to the bulkhead, and no shut-up cupboard above the cross-bed on more than one side of the cabin.'

Part II. of the regulations deals with the lettering, marking, and numbering of canal boats. It requires every owner of a canal boat registered as a dwelling to forthwith, upon the receipt of the certificates of registration from the registration authority, cause such boat to be lettered, marked, and numbered in accordance with the following rules, viz. :—

Lettering, marking, numbering, &c., of canal boats.

'(*a*) The word "registered," the name of the place to which the boat has been registered as belonging, the registered number of the boat, and such distinctive mark or marks as may be required by the registration authority, and may be specified in the certificates of

of the points upon which they desire information before proceeding with the examination of the boat.

[1] This form contemplates that the report shall contain information with respect to the time and place of examination, the name or number of the canal boats, the names of the owner and master, the address of the owner, the route along which the boat is accustomed or intended to ply, the nature of the traffic in which it is accustomed or intended to be employed, the mode of propulsion, whether it is a 'wide' or 'narrow' boat—i.e. whether more or less than 7 feet 6 inches beam, and whether it is to be used as a 'fly' boat worked by shifts, the number of cabins, their dimensions and cubical capacity, the rule of measurement and deductions adopted, and the description of the construction, furniture, and fittings of the boat as regards the several matters which by the regulations are rendered essential if the boat is to be registered. These are set out in paragraphs (*a*) to (*i*), pp. 102 and 103.

[2] That is, if it be less than 7 feet 6 inches.

registration, are to be painted white on a black ground in a conspicuous position on the outside of one of the cabins of the boat.

'(*b*) The name of the place to which the boat has been registered as belonging, and the registered number of the boat, must be painted in Roman capital letters and figures, not less than two inches in height.'

Part III. provides that for the purpose of fixing the number, age, and sex of the persons who may be allowed to dwell in a canal boat, which conforms to the conditions of registration provided by the regulations, and which shall, in pursuance of the statutory provision in that behalf, have been registered as a dwelling, the following rules shall apply:—

Number, age, and sex of the persons who may dwell in a canal boat, separation of the sexes, &c.

'(*a*) Subject to the conditions hereinafter prescribed with respect to the separation of the sexes, the number of persons who may be allowed to dwell in the boat shall be such that in the cabin or cabins of the boat there shall not be less than 60 cubic feet of free air space for each person above the age of 12 years, and not less than 40 cubic feet of free air space for each child under the age of 12 years:

'Provided that in the case of a boat built prior to the thirtieth day of June, one thousand eight hundred and seventy-eight, the free air space for each child under the age of 12 years shall be deemed sufficient if it is not less than 30 cubic feet.

'Provided, also, that in the case of a boat registered as a "fly" boat, and worked, by shifts, by four persons above the age of 12 years, there shall be not less than 180 cubic feet of free air space in any cabin occupied as a sleeping-place by any two of such persons at one and the same time.

'(*b*) A cabin occupied as a sleeping-place by a husband and wife shall not at any time while in such occupation be occupied as a sleeping-place by any other person of the female sex above the age of 12 years, or by any other person of the male sex above the age of 14 years:

'Provided that in the case of a boat built prior to the thirtieth day of June, one thousand eight hundred and seventy-eight, a cabin occupied as a sleeping-place by a husband and wife may be occupied by one other person of the male sex above the age of 14 years, subject to the following conditions:—

'(i) That the cabin be not occupied as a sleeping-place by any other person than those above-mentioned;

'(ii) That the part of the cabin which may be used as a sleeping-place by the husband and wife shall, at all times while in actual use, be effectually separated from the part used as a sleeping-place by the other occupant of the cabin, by means of a sliding or otherwise moveable screen or partition of wood or other solid material, so constructed or placed as to provide for efficient ventilation.

'(*c*) A cabin occupied as a sleeping-place by a person of the male sex above the age of 14 years shall not, at any time, be occupied as a sleeping-place by a person of the female sex above the age of 12 years, unless she be the wife of the male occupant, or of one of the male occupants in any case within the proviso to Rule *b*.

'(*f*) One cabin at the least in the boat must be furnished with a suitable stove and chimney in a safe and convenient situation, and in all other respects sufficient for the reasonable requirements of the persons allowed by these regulations to dwell in the boat.

'(*g*) The boat must be properly furnished or fitted with lockers,

cupboards, and shelves of suitable construction and adequate capacity, and in all other respects sufficient for the reasonable requirements of the persons allowed by the regulations to dwell in the boat.

'(*h*) The boat, if intended to be ordinarily used for the conveyance of any foul or offensive cargo, must contain, between the space to be occupied by such cargo and the interior of any cabin intended to be used as a dwelling, two bulkheads of substantial construction, which must be separated by a space not less in any part than four inches, and open throughout to the external air, and furnished with a pump for the removal of any liquid from such space, and the one next adjoining the space to be occupied by the cargo must be water-tight.

'(*i*) The boat must be furnished with a suitable cask or other appropriate vessel or receptacle of sufficient capacity for the storage of not less than three gallons of water for drinking.'

In every case where these conditions have been complied with the registration authority must cause the boat to be registered, in a book in the form [1] prescribed in the schedule to the regulations, as a dwelling for the number of persons allowed by the regulations to dwell therein.

Notice of change of master.

The owner of any canal boat registered as a dwelling must from time to time, on every new appointment of a master, supply his name and address to the registration authority in writing.

Form of certificates.

Each of the two certificates of registration which, in pursuance of the provisions of Section 3 of the Act, the registration authority give to the owner of the boat must, in addition to such other particulars as may seem fit to the authority, contain the several particulars set forth in a form [2] prescribed in the schedule to the regulations.

Fees for registration.

The fee for registration of a canal boat is five shillings. It must be paid by the owner to the registration authority before the delivery to him of the certificates.

Cleanliness and habitable condition of canal boats. Renewal of paint.

Part IV. of the regulations is devoted to the precautions to be taken for providing cleanliness in, and providing for the habitable condition of, canal boats. It requires the owner of every canal boat registered as a dwelling to cause the paint on every surface in the interior of every cabin which may be used as a dwelling-house to be thoroughly renewed once at least in every three years. It further requires the master to cause all bilge-water to be removed from the boat by pumping as often as may be necessary, to prevent any collection of such water beneath the floor of any cabin which may be used as a dwelling, and in any case not less frequently than once in every twenty four

Removal of bilge-water.

[1] This form contains a considerable amount of the information with respect to the boat which is required to be given in the form of report, as to which see note 1 on p. 101. It also gives the dates of examination and registration, the place to which the boat is registered as belonging for the purposes of the Elementary Education Acts, and the maximum number of persons for which the boat is registered, subject to the conditions prescribed with regard to the separation of the sexes.

[2] This form contains the necessary information for enabling the boat to be identified, and states the maximum number of persons for which it is registered as a dwelling. Thus: 'As a fly-boat worked by shifts, persons.' 'Otherwise than as a fly-boat: in after-cabin, persons; in fore-cabin, persons.' It also sets out at length the prescribed regulations for fixing the number, age, and sex of the persons who may be allowed to dwell in a canal boat, having regard to the cubic space, ventilation, provision for the separation of the sexes, general healthiness, and convenience of accommodation of the boat.

Cabins to be kept cleanly and habitable.

hours. The master must also cause every cabin which may be used as a dwelling to be kept at all times in a cleanly and habitable condition.

Notification of infectious disease.

Part V. prescribes the regulations for preventing the spread of infectious disease by canal boats. The first of these provides that in every case where a person on a canal boat is seriously ill, or is evidently suffering from an infectious disease, the master of the boat, if, at the time, the boat is proceeding on a journey, shall, as soon as may be practicable, give information thereof to the sanitary authority within whose district is situate the canal or the part of the canal along which the boat may at the time be passing, and, on the arrival of the boat at its port or place of destination, to the sanitary authority within whose district such port or place is situate, and also to the owner of the boat.

If at the time the boat be at its port or place of destination, the master must forthwith inform the sanitary authority within whose district such port or place is situate, and also the owner of the boat, that a person on board the boat is seriously ill or is evidently suffering from an infectious disease.

The owner of the boat must forthwith, upon the receipt from the master of information to the effect that a person on board the boat is or has been suffering from an infectious disease, give notice to that effect to the sanitary authority having jurisdiction in the place to which the boat may have been registered as belonging.

Boat not to proceed until the certificate of cleansing and disinfection has been obtained.

The regulations further provide that in every case where, in the exercise of power conferred by [1] Section 4 of the Canal Boats Act, 1877, a sanitary authority may have detained a canal boat for the cleansing and disinfection thereof, the authority, before allowing the boat to proceed on its journey, shall obtain from their medical officer of health, or from some other legally qualified practitioner, a certificate to the effect that the boat has been duly cleansed and disinfected, and shall cause such certificate to be delivered to the master of the boat. The sanitary authority may pay a reasonable remuneration for any such certificate.

Regulations enforceable by penalties (Canal Boats Act, 1884, Sec. 2).

The above regulations, and any others that may be made by the Local Government Board or the Education Department under the Canal Boats Acts, are enforceable against the master of the boat in respect of which the default is made, and also against the owner of the boat if in default, by penalties recoverable summarily, and not exceeding 20*s.* for each offence.

Power of sanitary authority as regards infectious disease in canal boat (Canal Boats Act, 1877, Sec. 4).

As has already been stated, the regulations of the Local Government Board make it the duty of the master, and in certain cases of the owner of every canal boat, to give information to the sanitary authority whenever any person on board is seriously ill, or evidently suffering from an infectious disease. When any sanitary authority are informed, either by this means or otherwise, of any case of infectious disease on board a canal boat, the Act makes it their duty to cause such steps to be taken as may by the certificate of their medical officer of health, or of any other legally qualified medical practitioner, appear requisite for preventing the disorder from spreading; and for that purpose they are empowered to exercise the power of removing the person suffering, and all other powers in relation to

[1] As to this section, see below, on this page.

provisions against infection [1] conferred by the Public Health Act, 1875, and may also, if need be, detain the boat; [2] but the boat may not be detained a longer time than is necessary for cleansing and disinfecting it.

Power to enter canal boats (Sec. 5).

Where any person duly authorised by a registration or sanitary authority, or by a justice of the peace, has reasonable cause to suppose either that there is any contravention of the Canal Boats Acts on board a canal boat, or that there is on board such boat any person suffering from an infectious disorder, he may, on producing (if demanded) either a copy of his authorisation, purporting to be certified by the clerk, or a member of the sanitary authority, or some other sufficient evidence of his being authorised, enter by day [3] such canal boat and examine the same and every part thereof, in order to ascertain whether there is on board any contravention of the Act, or a person suffering from an infectious disorder, and may, if need be, detain the boat for the purpose, but no longer time than is necessary.

Fine for obstruction.

The master of the boat must, if required by such person, produce to him the certificate of registry (if any) of the boat, and permit him to examine and copy it, and must furnish him with such assistance and means as he may require for the purpose of his entry and examination of and departure from the boat. A refusal to comply with the above requisition will be deemed to be an obstruction of the person. In any case of obstruction, the person obstructing will be liable to a fine not exceeding 40*s*.

Illegal detention of certificate of registry (Sec. 10).

If the master of any canal boat illegally detains the certificate of registry, he may, on summary conviction before two justices, be directed to deliver up the certificate, and he will in addition thereto be liable to a fine not exceeding 40*s*., and the fine may be directed to be paid to the person injured by the detention of the certificate.

Education of children in canal boats (Sec. 6 and 12).

The Acts contain special provisions with respect to the education of children living in canal boats, and enable the Education Department to make regulations on this subject. These provisions do not, however, come within the scope of the present work.

Inquiries and reports by Local Government Board (Canal Boats Act, 1884, Sec. 4).

The Local Government Board are required by Section 4 of the Act of 1884, to make an annual report to Parliament as to the execution of the Canal Boats Acts, and the observance of the regulations made by them thereunder; and they are also directed to cause inquiries to be made from time to time by one or more inspectors appointed by them for that purpose. It is satisfactory to find from these reports, which appear regularly in the Annual Report of the Local Government Board, that on the whole the Acts and regulations are well enforced, and that their effect has been decidedly beneficial.[4]

[1] As regards these provisions, see pp. 157 to 167.

[2] As will be seen above (p. 104), the regulations require the sanitary authority to detain the boat in these cases until a certificate is obtained from the medical officer of health or other legally qualified practitioner that the boat has been duly disinfected.

[3] The expression 'by day' is defined by Section 9 of the Act of 1877 as including the hours between six o'clock in the morning and nine o'clock at night. These hours will be according to Greenwich mean time. See The Statutes (Definition of Time) Act, 1880.

[4] See, e.g., p. 147 of the *Eighteenth Annual Report of the Local Government Board*, in which it is stated that 'it seems clear, from the report of the inspector and the reports of the local authorities, that the extent of the supervision which they exercise under the Acts has been steadily increasing, and that the condition of the boats and their occupants has substantially improved in the course of the last few years. The indecent herding together of men, unmarried women, and children

(*h*) Movable Dwellings other than Canal Boats

Insanitary tents, vans, &c. (Housing of Working Classes Act, 1885, Sec. 9).

Section 9 of the Housing of the Working Classes Act, 1885, provides that a tent, van, shed, or similar structure used for human habitation which is in such a state as to be a nuisance or injurious to health, or which is so overcrowded as to be injurious to the health of the inmates, whether or not members of the same family, shall be deemed to be a nuisance within the meaning [1] of Section 91 of the Public Health Act, 1875, and that the provisions of that Act shall apply accordingly.

Cases in which these provisions are intended to apply.

This, and the remaining [2] provisions of the section, which, it should be stated, do not apply to any tents, vans, sheds, or similar structures erected or used by any portion of her Majesty's military or naval force, were inserted in the above Act on the recommendations of the Royal Commission on the Housing of the Working Classes. They are intended to apply to what has been termed the van population. To quote the Report of the Commission: 'In various parts of the country there are plots of ground which are occupied by persons who inhabit movable dwellings, either vans or tents. They are of the gipsy, or so-called gipsy class, and the ground upon which they settle is generally vacant ground in private hands, and they establish themselves upon it in some cases with, and in some cases without, the consent of the owner. Some owners not only consent to, but charge a weekly rent for the occupation of the ground.' 'The inhabitants of vans, even if they never move at all, are not held to be the inhabitants of a house. It was stated in evidence that there was a magisterial decision which was upheld by the High Court, to the effect that a broken-down van was not a house. They are therefore subject to no sanitary regulations whatever.'

Power to make bye-laws with reference to movable dwellings (Sec. 10).

The section above referred to enables any urban or rural sanitary authority to make bye-laws [3] for promoting cleanliness in and the habitable condition of these movable dwellings, and for preventing the spread of infectious disease by the persons inhabiting them, and generally for the prevention of nuisances in connection with them. These bye-laws are subject to the provisions of the Public Health Act relating to bye-laws, and the Local Government Board are authorised, for the purposes of the execution of their duties with reference to the confirmation of these bye-laws, to institute such local inquiries as they see fit.

Where any person duly authorised by a sanitary authority or by a justice of the peace has reasonable cause to suppose either that there is any contravention of the above provisions, or any bye-law made under them, in any tent, van, shed, or similar structure used for human habitation, or that there is in any such movable dwelling any person suffering from a dangerous infectious disorder, he may on producing, if

in barge cabins has much diminished, and flagrant cases of this kind are rare, though by no means unknown. The sanitary condition of the boats has also been substantially improved; and the regulation that boats carrying foul cargoes shall have double bulkheads between the hold and the cabin, so as to prevent the foul air from pouring into the sleeping-place of the occupants, has tended to remove one important cause of discomfort and illness.

[1] As to this section and the proceedings to be taken in respect of nuisances as defined by it, see pp. 61 to 68.

[2] As to these provisions, see below on this page.

[3] As regards the general provisions of the Public Health Act, 1875, relating to these bye-laws, their confirmation, &c., see note 2, p. 33.

demanded, either a copy of his authorisation, purporting to be certified by the clerk or a member of the sanitary authority, or some other sufficient evidence of his being duly authorised, enter by day such movable dwelling, and examine the same and every part thereof, in order to ascertain whether there is in it any contravention of any such bye-law or a person suffering from a dangerous infectious disorder. For the purposes of this enactment, 'day' means the period between six o'clock in the morning and the succeeding nine [1] o'clock in the evening. If any such person is obstructed in the performance of his duty under the above provisions, the person obstructing him will be liable on summary conviction to a fine not exceeding 40*s*.

(*i*) Lodging and Accommodation of Hop-Pickers and Fruit-Pickers

Bye-laws as to hop-pickers (Public Health Act, 1875, Sec. 314), and fruit-pickers (Public Health (Fruit-pickers' Lodgings) Act, 1882).

Section 314 of the Public Health Act, 1875, enables any urban or rural sanitary authority to make bye-laws for securing the decent lodging and accommodation of persons engaged in hop-picking within the district of such authority. This power has been extended by the Public Health (Fruit Pickers' Lodgings) Act, 1882, so as to authorise the same authorities to make bye-laws for securing the decent lodging and accommodation of persons engaged in the picking of fruit and vegetables.

Condition of hop-pickers (Report of Royal Commission on the Housing of the Working Classes).

The condition of hop-pickers is thus described by the Royal Commission on the Housing of the Working Classes: 'The lodgings provided for these immigrants are principally hopper-houses, barns, cow-sheds, stables and tents. The hopper-house is generally a long, low, brick and tile building, divided into ten or twelve compartments, and accommodating from eight to a dozen persons in each compartment. Sometimes cooking-sheds are provided, which are necessary for the people, not only for cooking their food, but for drying their clothes. Tents, which are purchased second-hand from the Government, are often used; as they are usually supplied without cooking-sheds, the condition of the women and children, who rarely have a change of clothes, is in wet weather most pitiable. Over-crowding is frequent unless great supervision is exercised, and there is great difficulty in separating the sexes, and the married people from the single. Altogether, the description given of the condition of the hop-pickers shows that, on both moral and sanitary grounds, regulations should be universally enforced. Several of the sanitary authorities have adopted bye-laws which omit to provide cooking-houses, screens between the beds, or privies, and the Local Government Board have been compelled to give a reluctant consent to such defective regulations as being better than none at all. Your Majesty's Commissioners would therefore recommend that Section 314 of the Public Health Act, 1875, should be so amended that provisions equivalent to those contained in the model bye-laws of the Local Government Board shall be applied in all districts of sanitary authorities largely visited by persons engaged in picking hops, and that provision be also made for the efficient inspection of the lodgings of hop-pickers and fruit-pickers by the sanitary authorities.'

This recommendation has not yet been adopted by the Legislature, although the provisions [2] contained in Section 9 of the Housing of

[1] See note 3 on p. 105.

[2] As to these provisions, see p. 106.

the Working Classes Act, 1885, with reference to movable dwellings which have enabled proceedings to be taken either by the sanitary authority or by any person aggrieved in the case of any tent, shed or similar structure, which is in such a state as to be a nuisance or injurious to health, or which is so over-crowded as to be injurious to the health of the inmates, have to some extent amended the law with respect to some of the dwellings of hop-pickers and fruit-pickers. The model bye-laws of the Local Government Board, to which reference is made in the Report of the Commission, apply to all tents, sheds, barns, hopper-houses or other habitations appropriated and used from time to time for the lodging of hop-pickers, with the exception of buildings occupied as dwelling-houses, or for human habitation throughout the year. The habitations to which the bye-laws apply are required to be thoroughly clean, dry, and waterproof, to be properly ventilated, and, where practicable, sufficiently lighted. At least sixteen square feet available floor space must be allowed in them for every adult, and for every two children under ten years of age. When appropriated for the reception of adult persons of different sexes, they must be so furnished or provided that every bed is properly separated from any adjoining bed by a suitable screen or partition, of such material, construction and size as to secure adequate privacy to the occupant or occupants. There must also be provided in connection with any habitations to which the bye-laws apply a suitable cooking-house or other place in a safe and suitable position, properly covered or sheltered, in which fires may be safely and readily lighted, and food may be properly cooked, and clothes and other articles properly dried. This cooking-house or place is required to be so constructed that for every fifteen persons authorised to be received in the habitation a separate fire-place or separate accommodation may be provided for the cooking of food and the drying of clothes and other articles. Such a supply of good and wholesome water must be provided, in some suitable place in, or in connection with the habitation or readily accessible therefrom, as will at all times suffice for the reasonable requirements, whether for drinking, cooking, washing or other purposes of the lodgers. The bye-laws also provide that every lodger shall be provided with a sufficient supply of clean dry straw, or other clean, dry and suitable bedding, which must be changed or properly cleansed from time to time, as often as occasion may require. Every part of the interior of the habitation and of any cooking-house, privy or other premises in connection therewith must be thoroughly cleansed, immediately before any person is received to lodge therein, and from time to time as occasion may require, while the lodgers are retained therein. The walls and ceilings of every room constructed of brick, stone, iron, concrete, wood, earth, or plaster must be well and sufficiently limewashed at least once in every year, and all accumulations or deposits of filth or any offensive or noxious matter removed from the habitation or premises, and from the land immediately adjoining. The bye-laws further require a sufficient number of privies properly constructed, for the separate use of each sex, to be provided in a suitable position in connection with each habitation.

Model bye-laws as to hop-pickers.

IX. BUILDINGS

Power to make bye-laws as to new buildings (Public Health Act, 1875, Sec. 157).

Section 157 of the Public Health Act, 1875, enables every urban sanitary authority to make bye-laws [1] with respect to the structure of walls, foundations, roofs and chimneys of new [2] buildings for securing stability and the prevention of fires, and for purposes of health, and with respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings.

Extension of these powers by Section 23 of Public Health Acts Amendment Act, 1890.

These powers have been extended by Section 23 of the Public Health Acts Amendment Act, 1890, so as to enable any urban sanitary authority which has adopted Part III. of that Act to make bye-laws with respect to the structure of floors, hearths, and staircases, and the height[3] of rooms intended for human habitation; the paving

[1] As regards the general powers of the Public Health Act with respect to bye-laws, their confirmation, &c., see note 2 on p. 33.

[2] For the purposes of the Act, the re-erecting of any building pulled down to or below the ground-floor, or of any frame-building of which only the framework is left down to the ground-floor, or the conversion into a dwelling-house of any building not originally constructed for human habitation, or the conversion into more than one dwelling-house of a building originally constructed as one dwelling-house only, will be considered the erection of a new building (Sec. 157).

[3] The following memorandum with respect to the height to be appointed by these bye-laws has been issued by the Local Government Board. It is signed by Sir George Buchanan and Mr. Percy Gordon Smith, and is dated December 1891:—

'It will seldom or never be requisite to appoint by bye-law any *maximum* height for habitable rooms. The following observations have reference to proposals for regulating by bye-law the smallest permissible height—the *minimum* height—for such rooms.

'Under customary conditions low-pitched rooms are comparatively more difficult to keep fresh—to "ventilate"—than rooms of greater height. As regards day-rooms, the fact is so far generally recognised that they are usually built of a sufficient height. It is more particularly in the case of sleeping-rooms that builders fail to act upon this knowledge; and yet it is in sleeping-rooms that adequate height of room is of most importance, because the occupants are not able during sleep to vary the conditions of air-movement through the room.

'Bye-laws on this subject-matter, being of chief importance for sleeping-rooms, are of most especial importance in the case of domestic buildings where rooms are to be occupied during the night by a number of persons, or, in the ordinary course of events, they may become so occupied. For the provision of adequate *breathing space for the several occupants* of a room will be materially facilitated or hindered according to the height of the room. A room may provide sufficient *floor-space* for the wants of a given number of persons; but whether this number of persons shall have enough breathing space to keep them in health will depend upon the *height* of the room. If, for example, they get just enough breathing space when the height is 8 feet or 9 feet, it is obvious that they will not get enough when the height is only 7 feet. The requisite breathing space has, in rooms of such insufficient height, to be got by reducing the number of persons in the room; that is, by securing to the several occupants a floor area in excess of what would otherwise suffice for their wants. The occupants, not understanding the reason for this and caring only for floor area, are tempted to pack too many people into the limited breathing space of the room. And thus, it is seen, rooms of insufficient height operate in serious measure to foster that nuisance of 'over-crowding' which a sanitary authority desires to repress and prevent.

'Having in view these considerations, sanitary authorities will find it advantageous to appoint a minimum height for rooms in general; and, all proper regard being given to economy as well as to health, the minimum had best be 9 feet, 8½ feet, or 8 feet. Nine feet is to be preferred. In no case should a bye-law submitted for the Board's approval propose for any class of room a smaller height than 8 feet over the total area of the room.

'In the case of rooms, such as those immediately under the roof of a house, in which the height of the room is not to be uniform, there is the same reason as in the case of other rooms for securing proper height for them. The construction should in these cases be such as to give not less than 8 feet as the *mean height* of the entire room. . . . For various reasons it is well to forbid by bye-law a lower height than 4 feet over any part of a dwelling-room.

of yards and open spaces in connection with dwelling-houses; and the provision in connection with the laying out of new streets of secondary means of access, where necessary for the purpose of the removal of house refuse and other matters.

The last-mentioned section has also enabled any rural sanitary authority, adopting Part III. of the Act, to make and enforce bye-laws for each of the above purposes, with the exception of the prevention of fires, and has empowered every sanitary authority to make and enforce bye-laws to prevent buildings which have been erected in accordance with bye-laws made under the Public Health Acts from being altered in such a way that if at first so constructed they would have contravened the bye-laws.

The powers thus given are very wide, and when judiciously exercised, may be productive of the most beneficial results. They can altogether prevent the erection of insanitary dwellings either for the rich or for the poor, and deprive the jerry-builder of the opportunity of doing mischief in any district. A very serious responsibility therefore rests on those sanitary authorities who, having these powers, neglect to put them in force. Nor can it be regarded as satisfactory that it should be left to the option of every sanitary authority to determine whether or not in its district it shall be an offence to build houses which are likely to produce disease. It is clearly undesirable that such houses should be permitted to be erected anywhere, either in the town or in the country.

The reasons why these important matters have been left to be regulated by bye-laws are, however, not difficult to understand. Building regulations are necessarily highly technical, and, as it would seem, very voluminous; and the drafting of a satisfactory Building Act, with provisions neither too lax in the interests of the public health nor too stringent for the public opinion of the time, would be a task of great difficulty. At the same time, it seems to be a question whether the time has not now come when certain requirements as to building might not be embodied in an Act of Parliament and made of universal application. Much experience has been gained in this matter since the above power of making bye-laws was first given by the Sanitary Acts; and the knowledge that building is allowed to proceed unregulated in a neighbouring district too often operates as a strong inducement to a sanitary authority to allow the same state of things to go on in its own borders, for it is not every authority that can afford to view with equanimity the banishment of the building trade beyond the boundaries of its district. On the other hand, it may possibly be urged that building rules in advance of the public opinion of a district are not likely to be very efficiently enforced by any local authority.

The Local Government Board have issued a very elaborate series of model building bye-laws, which it will be well for sanitary authorities to follow as closely as may be. But as these bye-laws and the general principles on which they are founded are discussed, and explained from an architectural and also from a sanitary point of view in Volume I.[1] of the present work, it is not necessary here to describe their contents.

There are, however, certain statutory enactments with reference to buildings which remain to be noticed. The first of these is contained

[1] See under 'The Dwelling,' vol. 1, p. 659, *et. seq.*

in Section 25[1] of the Public Health Acts Amendment Act, 1890, which provides that it shall not be lawful to erect a new building on any ground which has been filled up with any matter impregnated with any fæcal, animal, or vegetable matter, or upon which any such matter has been deposited, unless and until such matter shall have been properly removed by excavation or otherwise, or shall have been rendered or become innocuous. Every person who does, or causes, or wilfully permits to be done, any act in contravention of this section is for every such offence liable to a penalty not exceeding 5*l*., and to a daily penalty not exceeding 40*s*.

Penalty for erecting buildings on ground filled up with offensive matter (Public Health Acts Amendment Act, 1890, Sec. 25).

The next of these enactments is Section 33 of the same Act. It declares that where the plan of a building has been either before or after the adoption of Part III. of the Act deposited with a sanitary authority in pursuance of any Act of Parliament or any bye-law, and that building is described therein otherwise than as a dwelling-house, any person who wilfully uses, or knowingly permits to be used, such building, or any part thereof, for the purposes of habitation by any person other than the person placed therein to take care thereof, and the family of such person, shall be guilty of an offence under this section, and shall be liable to a penalty not exceeding 5*l*., and to a daily penalty not exceeding 40*s*. These provisions are, however, subject to the following exception, viz., that if the building has in the rear thereof, and adjoining and exclusively belonging thereto, such an open space as is required by any Act of Parliament or bye-law for the time being in force with respect to buildings intended to be used as dwelling-houses, and if such part of the building as is intended to be used as a dwelling-house has undergone such structural alterations, if any, as are necessary, in the opinion of the sanitary authority, to render it fit for that purpose, the owner may use the same as a dwelling-house.

Buildings described in deposited plans otherwise than as dwelling-houses not to be used as such (Sec. 33).

Exception.

Another section of the same Act (Section 24) prohibits the occupation as a dwelling-place, sleeping-place, or work-room, or place of habitual employment of any person in any manufacture, trade, or business during any portion of the day or night, of any portion of a room which extends immediately over any privy (not being a water-closet or earth closet), or immediately over any cesspool, midden, or ashpit. Any person who, after the expiration of one month after the adoption of Part III. of the Act, and after notice from the urban sanitary authority of not less than seven days, so occupies, and any person who suffers to be so occupied, any such room, is liable to a penalty not exceeding 40*s*., and to a daily penalty not exceeding 10*s*.

Rooms over privies, &c., not to be used as dwelling or sleeping rooms (Sec. 24).

X. OFFENSIVE TRADES

The provisions of the Public Health Act, 1875, which deal specifically with offensive trades, do not extend to all offensive trades, but only to such as are included in the definition contained in Section 112 of the Act. These are the trades of 'blood-boiler, bone-boiler, fellmonger, soap-boiler, tallow-melter, tripe-boiler, and any other noxious or offensive trade, business, or manufacture.' At first sight it might seem that the last part of this definition is sufficiently comprehensive to include all noxious and offensive trades; but it has been construed

Definition of 'offensive trade' (Public Health Act, 1875, Sec. 112).

[1] This and the following sections of this Act are only in force in sanitary districts in which Part III. of the Act has been adopted by the sanitary authority. Section 24 can only be thus put in force by the sanitary authority in any urban sanitary district.

by the courts of law as including only such trades as are *ejusdem generis* with the six trades enumerated. It will be observed that the substances dealt with in these trades are all animal substances, which, without anything being done to them, must be, or by process of time must necessarily become, a nuisance and annoyance to the neighbourhood. For this reason the business of brickmaking[1] has been held not to come within the definition, while the business of a rag and bone merchant[2] has been declared to be within it. It will not, however, be sufficient in order to bring a trade within the definition that the substances dealt with are animal substances, if, as a matter of fact, the trade is not proved to be offensive, for a business of frying fish[3] for sale by retail has been held not to be covered by the definition in the absence of any evidence that the business was *per se* offensive. It will be necessary, therefore, in determining whether a business comes within the definition of 'offensive trade' in Section 112 of the Public Health Act, 1875, to consider whether the materials used in its processes are identical with or similar to those dealt with in the six trades specified in the definition, and also whether the trade is, or must be, carried on in such a manner as to be noxious or offensive.[4]

Restriction on establishment of offensive trade in urban districts without consent of the sanitary authority (Sec. 112).

Assuming that the trade can be shown to be an offensive one within the meaning of the Act, any urban sanitary authority, and any rural sanitary authority which has been invested with the necessary powers[5] can, if the trade is not already carried on within its district, prevent it from being established there. For the Act provides that any person who establishes any such trade within the district of an urban sanitary authority without their consent in writing shall be liable to a penalty not exceeding 50*l.* in respect of the establishment of the business; and that any person carrying on a business so established shall be liable to a penalty not exceeding 40*s.* for every day on which the offence is continued, whether there has or has not been any conviction in respect of the establishment of the business.

Bye-laws as to offensive trades established in urban districts with the consent of the sanitary authority (Sec. 113).

In giving or withholding their consent to the establishment of an offensive trade in their district a sanitary authority will no doubt be guided by several considerations, e.g. the locality in which the business is to be carried on, the precautions which it may reasonably be expected that the proprietor will take to prevent it becoming a nuisance to the neighbourhood, the industrial requirements of the district, &c. It is not contemplated by the Act that the consent should in all cases be withheld. For Section 113 of the Act enables any urban sanitary authority to make bye-laws[6] from time to time with respect to any offensive trades established with their consent either before or after the passing of the Act, in order to prevent or diminish the noxious or injurious effects thereof. And for the guidance of sanitary authorities the Local Government Board have issued model bye-laws for the regulation of the following trades—namely, blood-boilers, blood-driers, bone-boilers, fellmongers, tanners, leather-dressers, soap-boilers, tallow-melters,

[1] *Wanstead Local Board of Health* v. *Hill*, 13 C. B. (N.S.) 479; 32 L. J. M. C. 155; L. T. (N.S.) 744; 9 Jur. (N.S.) 972; 11 W. R. 368.

[2] *Passey* v. *Oxford Local Board*, 43 J. P. 622.

[3] *Braintree Local Board* v. *Boyton*, 52 L. T. (N.S.) 99; 48 J. P. 582.

[4] Much valuable and practical information respecting offensive trades will be found in Dr. Ballard's 'Report on Effluvium Nuisances,' which was originally published in the supplement to the *Sixth Annual Report of the Local Government Board*, but which has since been reprinted separately by the Stationery Office.

[5] See p. 11.

[6] See note 2 on p. 33.

fat-melters or fat-extractors, tripe-boilers, glue-makers, size-makers, and gut-scrapers.

Duty of urban sanitary authority to take proceedings before the justices when certain offensive trades within their district are certified to be a nuisance (Sec. 114).

The powers and duties of sanitary authorities to take proceedings before the magistrates for the abatement of nuisances in respect of offensive trades, whether established within or without their districts, extend to several trades which do not come within the definition of offensive trades contained in Section 112 of the Public Health Act, 1875. And where the trade is carried on within their district and is certified to them to be a nuisance by the medical officer of health, or by any two legally qualified medical practitioners, or by any ten inhabitants of the district, they have no option but to take such proceedings. See Section 114 of the Act, which provides that where 'any candle-house, melting-house, melting-place, or soap-house, or any slaughter-house, or any building or place for boiling offal or blood, or for boiling, burning, or crushing bones, *or any manufactory, building, or place used for any trade, business, process, or manufacture causing effluvia*, is certified to any urban authority by their medical officer of health, or by any two legally qualified practitioners, or by any ten inhabitants of the district of such urban authority to be a nuisance or injurious to the health of any of the inhabitants of the district, such urban authority shall direct complaint to be made before a justice,[1] who may summon the person by or on whose behalf the trade so complained of is carried on to appear before a court of summary jurisdiction.'

In any such case the court must inquire into the complaint, and if it appears to them that the business carried on by the person complained of is a nuisance, or causes any effluvia which is a nuisance or injurious to the health of any inhabitants of the district, and *unless*[2] *it be shown that such person has used the best practicable means for abating such nuisance, or preventing or counteracting such effluvia*, the person so offending (being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier) will be liable to a penalty not exceeding 5*l.* nor less than 40*s.*; and, on a second or any subsequent conviction, to a penalty double the amount of the penalty imposed for the last preceding conviction, but the penalty must not in any case exceed the maximum of 200*l.* The court may suspend its final determination on condition that the person complained of undertakes to adopt, within a reasonable time, such means as the court may deem to be practicable and order to be carried into effect for abating such nuisance, or mitigating or preventing the injurious effects of such effluvia, or if such person gives notice of appeal to the court of quarter sessions in manner provided by the Act.

Power to proceed where nuisance arises from offensive trade carried on without the district (Sec. 115).

Where any house, building, manufactory, or place which is certified in pursuance of the above provisions to be a nuisance or injurious to the health of any of the inhabitants of the district of an urban sanitary authority is situated *without* such district, such authority make take, or cause to be taken, any proceedings authorised by these provisions in respect of the matters alleged in the certificate with the same incidents and consequences as if the house, building, manufactory, or place were situated within the district; so, however, that summary

[1] A later part of the section provides that the urban sanitary authority may, if they think fit, on such certificate as is in the section mentioned, cause to be taken any proceedings in any superior court of law or equity against any person in respect of the matters alleged in the certificate.

[2] See note 4 on p. 112 as to Dr. Ballard's 'Report on Effluvium Nuisances' which will be found of the utmost value in these prosecutions.

proceedings shall not in any case be had otherwise than before a court having jurisdiction in the district where the house, building, manufactory, or place is situated.

The section giving this power extends to the Metropolis so far as to authorise proceedings to be taken under it by any nuisance authority in the Metropolis in respect of any house, building, manufactory, or place which is certified as aforesaid to be a nuisance or injurious to the health of any of the inhabitants within the area of their jurisdiction, and which is situated within the district of a sanitary authority; or by any urban sanitary authority in respect of any house, building, manufactory, or place which is certified as aforesaid to be a nuisance or injurious to the health of any of the inhabitants of their district, and is situated within the jurisdiction of any such nuisance authority.

For the purposes of the above enactment 'nuisance authority' means the local authority in the Metropolis for the execution of the Nuisances Removal Act for England, 1855,[1] and the Acts amending the same.

XI. THE ALKALI, &c., WORKS REGULATION ACTS, 1881 AND 1892

Works subject to the Alkali, &c., Works Regulation Act, 1881.
Act to be cumulative (Sec. 31).

As has already been shown, the provisions of the Public Health Act relating to offensive trades apply only to a limited class of trades. A very large number of works in which noxious and offensive gases are evolved are subject to the Alkali, &c., Works Regulation Acts, 1881 and 1892, which provide for their inspection and regulation by officers of the Local Government Board. Nothing contained in either of these Acts will, however, legalise any act or default which would otherwise be deemed to be a nuisance, or be contrary to law, or deprive any[2] person of any remedy by action, indictment, or otherwise, to which he would be entitled if the Act had not passed. And where it

Power of sanitary authority to appeal to Local Government Board in cases where the Act is contravened (Sec. 27).

appears to any sanitary authority, on the written representation of any of their officers, or of any ten inhabitants of their district, that any work (either within or without their district) to which either Act applies is carried on in contravention of the Act of 1881, or that any alkali waste is deposited (either within or without their district) in contravention of the Act, and that a nuisance is occasioned by such contravention to any of the inhabitants of their district, such authority[3] may complain to the Local Government Board, who in such a case are required to make such inquiry into the matters complained of, and after the inquiry are empowered to direct such proceedings to be taken by an inspector as they think just. It is, therefore, important to sanitary authorities and their officers to know to what works the Act applies, and what will constitute a contravention of its provisions.

To what works the Act applies.

The Act of 1881 applies to all alkali works and to certain other works enumerated in the schedule to the Act. The latter works are referred to in the Act as scheduled works.

Definition of alkali works (Sec. 29).

'Alkali work' is defined by the Act as meaning every work for the manufacture of alkali, sulphate of soda, or sulphate of potash, in

[1] These Acts have been consolidated and amended, so far as London is concerned, by the Public Health (London) Act, 1891, under which the sanitary authorities, i.e. the Metropolitan Vestries and District Boards, the Commissioners of Sewers in the City of London, and the Woolwich Local Board are the principal local authorities for the execution of the provisions of the Act relating to nuisances.

[2] As 'person' includes corporation, this section preserves the rights of the sanitary authority to take proceedings.

[3] The sanitary authority complaining may be required by the Local Government Board to pay the expenses of the inquiry out of the fund or rate applicable to their general expenses.

which muriatic gas is evolved; and for the purpose of this definition the formation of any sulphate in the treatment of copper ores by common salt or other chlorides will be deemed to be a manufacture of sulphate of soda.

Scheduled works.

The scheduled works to which the Act of 1881 applies are the following:—

(1) Sulphuric acid works; (2) Chemical manure works; (3) Gas-liquor works; (4) Nitric acid works; (5) Sulphate of ammonia works and muriate of ammonia works; and (6) Chlorine works.

To these works the following are added by the Act of 1892: (1) Alkali waste works; (2) Barium works; (3) Strontium works; (4) Antimony sulphide works; (5) Bisulphide of carbon works; (6) Venetian red works; (7) Lead deposit works; (8) Arsenic works; (9) Nitrate and chloride of iron works; (10) Muriatic acid works; (11) Fibre separation works; (12) Tar works; and (13) Zinc works. But the Act provides that if the process used in any of the five works which stand first on this list is such that no sulphuretted hydrogen is evolved therein, it is not to be deemed to be included in the schedule.

Works for extraction of salt from brine and cement works to be registered (Act of 1881, Sec. 10 and 11; Act of 1892 (Sec. 2)).

In addition to the above works, works in which the extraction of salt from brine is carried on, if the rock salt is dissolved at the place of deposit, and cement works—i e. works in which aluminous deposits are treated for the purpose of making cement—come within the provisions of the Act of 1881 as regards registration; and if it appears to the Local Government Board, on inquiry by their inspectors, that means can be adopted, at a reasonable expense, for preventing the discharge from the furnaces or chimneys of these works of the sulphurous and muriatic acid gases, or other noxious or offensive gases evolved, or for rendering such gases harmless or inoffensive when discharged, that Board may make a provisional order, which will be of no effect until confirmed by Parliament, limiting the amount or proportion of such gases which is to be permitted to escape from the works into the chimney or atmosphere, and extending to the works such of the provisions of the Act relating to scheduled works as they see fit. No order under these provisions has, however, up to the present time, been confirmed by Parliament.

Cases in which part only of a manufactory comes within the Act.

It not unfrequently happens that a part only of a manufactory comes within the provisions of the Act, and in these cases a misconception sometimes arises as to the power of the Government inspector to deal with nuisances arising from that part of the premises to which the Act does not apply. That this misconception is occasionally fostered by the owner of the manufactory appears from the 'Sixteenth Annual Report of the Local Government Board' (p. 144), where it is stated that 'the manufacture of chemical manure is often associated with various other offensive businesses, and the nuisance caused by the latter is sometimes wrongly attributed to the absence of adequate action under the Alkali, &c., Works Regulation Act.' The chief inspector mentions the case of one such establishment, where horse-slaughtering, bone-boiling, blood-drying, and other offensive operations are carried on, and where a large board informs the public that the place is 'registered under the Local Government Board,' although the registry merely applies to a small apparatus hidden away in an obscure corner of the building. In a case of this sort any nuisance arising from the unregistered portion of the works cannot be dealt with under the Alkali, &c., Act. Sanitary authorities and their officers will, therefore, do

well, before instituting complaints against these works to the Local Government Board under the power [1] above referred to, to make sure that the nuisance is not one with which they have power themselves to deal under the provisions of the Public Health Act.

Unregistered works not to be carried on. Fees for registration (Act of 1881, Sec. 11.)

No alkali work, or scheduled work, or work for the extraction of salt from brine, or cement work, may be carried on unless it has been certified to be registered by the Local Government Board. The certificate of registry is in force for one year, from April 1, following the day of the application for the certificate, such application being required to be made in January or February. The fee for a certificate is 5*l.* in the case of an alkali work, and 3*l.* in the case of any other registered work.

New works not to be registered unless furnished with proper appliances (Sec. 12).

No alkali work or scheduled work which has been erected after the commencement of the Act, or which has been closed for a period of twelve months, may be registered unless it is furnished with such appliances as at the time of registration appear to the chief inspector, after his own examination or that of an inspector, or, in case of difference, to the Local Government Board, to be necessary, in order to enable the work to be carried on in accordance with such requirements of the Act as for the time being apply to such work.

Requirements of the Act as regards alkali works. The condensation of acid gases (Sec. 3).

The following are the requirements of the Act of 1881 with respect to alkali works. Every such work is required, by Section 3 of the Act, to be carried on in such manner as to secure the condensation to the satisfaction of the chief inspector, derived from his own examination, or from that of some other inspector; (*a*) of the muriatic acid gas evolved in such work to the extent of 95 per cent., and to such an extent that in each cubic foot of air, smoke, or chimney gases escaping from the works into the atmosphere, there is not contained more than one-fifth of a grain of muriatic acid; and (*b*), of the acid gases of sulphur and nitrogen, which are evolved in the process of manufacturing sulphuric acid or sulphates in the work, to such an extent that the total acidity of such gases in each cubic foot of air, smoke or gases, escaping into the chimney or into the atmosphere, does not exceed what is equivalent to four grains of sulphuric anhydride. The owner [2] of any alkali work which is carried on in contravention of these provisions is liable to a fine, not exceeding in the case of the first offence 50*l.*, and in the case of every subsequent offence 100*l.*

Best practicable means to be used for preventing discharge of noxious and offensive gases (Sec. 4).

In addition to the above requirements with respect to the condensation of acid gases, Section 4 of the Act requires the owner of every alkali work to use the best practicable means for preventing the discharge into the atmosphere of all noxious [3] gases, and of all offensive gases evolved in such work, or for rendering such gases harmless and inoffensive when discharged, subject to the qualification that no objection may be taken by an inspector to any discharge of gas by a chimney or flue on the basis of the amount of acid gas per cubic foot of air, smoke or gases, where that amount does not exceed the amount prescribed by Section 3. The penalties for contravening this section are 20*l.* for a first offence, and 50*l.* for every subsequent offence, with a continuing penalty of 5*l.* a day for every day during which the subsequent offence has continued.

[1] See p. 114.

[2] 'Owner' is defined by the Act as meaning the lessee, occupier, or any other person carrying on any work to which the Act applies.

[3] 'Noxious or offensive gas' does not include sulphurous acid arising from the combustion of coal.

Acid not to come in contact with alkali waste or drainage therefrom (Sec. 5).

A further requirement with respect to these works is imposed by Section 5, which provides that every work in which acid is produced or used shall be carried on in such manner that the acid shall not come in contact with alkali waste, or with any drainage therefrom, so as to cause a nuisance. The penalties for contravening this section are 50*l.* for a first offence, and 100*l.* for every subsequent offence, with a continuing penalty of 5*l.* a day for every day during which the subsequent offence is continued.

Duty of sanitary authority to provide drains at expense of owners for carrying off acid produced in alkali works.

The same section provides that on the request of the owner of any such work as is mentioned therein, the sanitary authorities of the district in which the work is situate shall, at the expense of the owner, provide and maintain a drain or channel for carrying off the acid produced in such work into the sea, or into any river or watercourse into which such acid can be carried without contravention of the Rivers Pollution Prevention Act, 1876; and that the sanitary authority shall, for the purpose of providing any such drain or channel, have the like powers [1] as they have for providing sewers, whether within or without their district, under the Public Health Act. Compensation must be made to any person for any damage sustained by him by reason of the exercise by a sanitary authority of the powers conferred by this section; and such compensation will be deemed part of the expenses to be paid by the owner [2] making the request to the sanitary authority.

Deposit or discharge of alkali waste (Sec. 6).

Alkali waste must not be deposited or discharged without the best practicable means being used for effectually preventing any nuisance therefrom. If this requirement is contravened, the penalties are the same as those imposed by Section 4.

Prevention of nuisance from alkali waste deposited or discharged (Sec. 7).

Where alkali waste has been deposited or discharged, either before or after the commencement of the Act, and complaint is made to the chief inspector that a nuisance is occasioned thereby, he must, if satisfied of the existence of the nuisance, and that it is within the power of the owner [1] or occupier of the land to abate it, serve a notice on the owner or occupier, requiring him to abate the nuisance; and if the owner or occupier fails to use the best practicable and reasonably available means for the abatement thereof, he will be liable to a fine not exceeding 20*l.*, and if he does not proceed to use such means within such time as may be limited by the court inflicting the fine, he will be liable to a further penalty of 5*l.* a day from the expiration of the time so limited.

Requirements of the Act as regards sulphuric acid works (Sec. 8).

The following are the requirements of the Act with respect to sulphuric acid works as defined in the Schedule to the Act. Every such work is required by Section 8 of the Act to be carried on in such manner as to secure the condensation to the satisfaction of the chief inspector, derived from his own examination, or that of some other inspector, of the acid gases of sulphur and nitrogen which are evolved in the manufacture of sulphuric acid in such works, to such an extent that the total acidity of such gases in each cubic foot of air, smoke, or gases, escaping into the chimney or the atmosphere, does not exceed what is equivalent to four grains of sulphuric anhydride. The penalties imposed on the contravention of this section are the same as those imposed by Section 3.

The following requirements are by Section 9 made applicable to all

[1] As regards these powers, see pp. 18 and 19

[2] See note 2 on p. 116.

Requirements of the Act as regards all the scheduled works (Sec. 9).

the scheduled works. The owner [1] of every such work must use the best practicable means for preventing the discharge into the atmosphere of all noxious [2] gases, and of all offensive gases evolved in such work, or for rendering such gases harmless and inoffensive when discharged, subject to the qualification in the case of sulphuric acid works, that no objection shall be taken under the section by an inspector to any discharge of gas by a chimney or flue, on the basis of the amount of acid gas per cubic foot of air, smoke or gas, where that amount does not exceed the amount limited by Section 8. The penalties for contravention of this section are the same as those imposed by Section 4.

Provisions as to calculation of acid (Sec. 21).

In calculating the proportion of acid to a cubic foot of air, smoke, or gases, for the purposes of the Act, such air, smoke, or gases are to be calculated at a temperature of 60° of Fahrenheit's thermometer, and at a barometric pressure of 30 inches.

Powers of inspectors (Sec. 16, 17, 22).

Proceedings for the recovery of penalties under the Act are taken by the inspectors appointed by the Local Government Board, for the purposes of the Act, who have very full powers of inspecting the works to which the Act applies, and to whom every facility for inspection is to be given by the owners [1] of the works, including plans (to be kept secret) of those parts of the works in which any process causing the evolution of any noxious [2] or offensive gas, or any process for the condensation of such gas, or preventing the discharge thereof into the atmosphere, or for rendering any such gas harmless or inoffensive, when discharged, is carried on.

Appointment of additional inspectors on application of sanitary authorities (Sec. 19).

The Act contemplates that in some districts there may be a desire for the multiplication of these inspectors, and accordingly provides that if any one or more sanitary authorities apply to the Local Government Board for an additional inspector, and undertake to pay a proportion of his salary or remuneration, not being less than one-half, out of any rate or rates leviable by them (which undertaking they are authorised by the Act to give and to carry into effect), the Local Government Board may (if they see fit), from time to time, with the sanction of the Treasury appoint an additional inspector, to reside within a convenient distance of the works which he is appointed to inspect.

XII. FACTORIES AND WORKSHOPS

Provisions of Public Health Act as to nuisances in factories and workshops (Sec. 91).

As has already been seen,[3] the definition of 'nuisance' in Section 91 of the Public Health Act, 1875, includes any factory, workshop, or work place, not kept in a cleanly state, or not ventilated in such a manner as to render harmless as far as practicable any gases, vapours, dust, or other impurities generated in the course of the work carried on therein, that are a [4] nuisance or injurious to health, or so overcrowded while work is carried on, as to be dangerous or injurious to the health of those employed therein.

Not applicable to certain factories (Factory and Workshop Act, 1878, Sec. 101; Factory and Workshop Act, 1891, Sec. 39).

These provisions do not, however, apply to a factory which is subject to the provisions of the Factory and Workshop Act, 1878, relating to cleanliness, ventilation, and overcrowding.

It becomes therefore of importance to know what factories are

[1] See note 2 on p 116. [2] See note 3 on p. 116. [3] See p. 62.

[4] As to the meaning of the words 'a nuisance or injurious to health,' see note 1 on p. 61.

subject to the provisions of the last-mentioned Act, relating to cleanliness, ventilation, and overcrowding, and what these provisions are.

Section 61 of the Act declares that the [1] provisions in question shall not apply where persons are employed at home, that is to say, to a private house, room or place, which, though used as a dwelling, is by reason of the work carried on there a factory, within the meaning of the Act, and in which neither steam, water or other mechanical power is used, and in which the only persons employed are members of the same family dwelling there, it would appear that these places are the only factories to which the provisions of the Factory and Workshop Act, 1878, as to cleanliness, ventilation, and overcrowding do not apply; and that consequently they are the only factories to which Section 91 of the Public Health Act, 1875, applies.

Factories and workshops to which provisions of Public Health Act as to nuisances apply (Factory and Workshop Act, 1878, Sec. 61).

That section, however, applies to all workshops and workplaces other than factories, as does also Section 4 of the Factory and Workshop Act, 1891, which provides that every workshop as defined by the Factory and Workshop Act, 1878, including any workshop conducted on the system of not employing any child, young person, or woman therein, and every workshop within the meaning of the Public Health Act, 1875, shall be kept free from effluvia arising from any drain, water-closet, earth closet, privy, urinal, or other nuisance, and unless it is so kept, shall be deemed to be a nuisance liable to be dealt with summarily under the law relating to the public health.

Factory and Workshop Act, 1891, Secs. 3 and 39. Cleanliness and lime-washing of workshops (Sec. 4).

The same section provides that where, on the certificate of a medical officer of health or inspector of nuisances, it appears to a sanitary authority that the lime-washing, cleansing, or purifying of a workshop, or of any part of it is necessary for the health of the persons employed therein, the sanitary authority shall give notice to the owner or occupier requiring them to do the work; and that if he fails to comply with the notice within the time limited therein, he shall be liable to a fine not exceeding 10*s.* for every day during which he continues to make default; and the sanitary authority may, if they think fit, do the work themselves and recover from him in a summary manner the expenses incurred by them in so doing.

For the purposes of their duties with respect to workshops the sanitary authority and their officers, without prejudice to their other powers (e.g. under section 102 of the Public Health Act, 1875, as to which see page 65) will have all such [2] powers of entry, inspection, taking legal proceedings or otherwise, as an inspector of factories has under the Factory and Workshop Act, 1878.

Powers of sanitary authority and their officers (Sec. 3, (2)).

If any child under the age of 14 years, young person of that age and under 18 years of age, or woman of 18 years of age or upwards be employed in a workshop, and the medical officer of health of any sanitary authority becomes aware of it, it is his duty forthwith to give notice of the fact to an inspector of factories of the district.

Duty of medical officer of health where women or children are employed in workshops (Sec. 3, (3)).

As will have been seen from the above statement, ample powers are given to sanitary authorities for enforcing the provisions of the law relating to public health as to effluvia arising from drains, privies,

Powers of Secretary of State as to enforcing sanitary provisions in workshops (Sec. 1).

[1] Nothing in this section will, however, exempt a bakehouse from the provisions of the Act with respect to cleanliness (including lime-washing, painting, varnishing, and washing) or to freedom from effluvia. As regards the sanitary regulation of bakehouses, see pp. 122 to 126.

[2] As regards these powers, see p. 123.

or other nuisances in workshops, and with respect to the cleanliness, ventilation, overcrowding, or lime-washing of workshops. By the Factory and Workshop Act, 1891, the Secretary of State is empowered, if he is satisfied that these provisions are not observed in any workshops or class of workshops (including workshops conducted on the system of not employing any child, young person, or woman therein), or laundries, by order to authorise and direct, if he thinks fit, an inspector or inspectors of factories to take, during the period mentioned in the order, such steps as appear necessary or proper for enforcing them. An inspector so authorised may take the like proceedings for punishing and remedying any default in compliance with the above provisions as may be taken by the sanitary authority, and may recover the expenses from the sanitary authority, so far as they are not recovered from any other person, and have not been incurred in any unsuccessful proceedings.

Notices to be given to sanitary authorities by inspectors of factories (Factory and Workshop Act, 1878, Sec. 4; Factory and Workshop Act, 1891, Sec. 2, (1)).

Section 4 of the Factory and Workshop Act, 1878, provides that where it appears to an inspector of factories that any act or default in relation to any drain, water-closet, earth closet, privy, ashpit, water supply, nuisance, or other matter in a factory or workshop is punishable or remediable under the law relating to public health, but not under that Act, the inspector shall give notice to the sanitary authority, and that on such notice being given it shall be the duty of the sanitary authority to make such inquiry and take such action as may be proper for the enforcement of the law. For the purposes of the section, the inspector of factories may take with him into the factory or workshop a medical officer of health, inspector of nuisances, or other officer of the sanitary authority.

This enactment has been applied by the Factory and Workshop Act, 1891, to workshops conducted on the system of not employing any child, young person, or woman therein, and to laundries.

Power of inspector of factories to act on default of sanitary authority (Sec. 2, (2)).

The last mentioned Act also provides that where an inspector of factories has given notice to the sanitary authority, under Section 4 of the Act of 1878, as amended, and proceedings are not taken within a reasonable time for punishing or remedying the act, neglect, or default referred to in the notice, the inspector may take the like proceedings for this purpose as the sanitary authority might have taken. He will be entitled to recover from the sanitary authority all such expenses as he may incur and are not recovered from any other person, and have not been incurred in any unsuccessful proceedings.

Means of escape from factories in case of fire (Sec. 7).

Section 7 of the same Act imposes important duties on sanitary authorities in connection with the provision of means of escape from factories in case of fire. In the case of factories, the construction of which has been commenced after the 1st of January, 1892, and in which more than forty persons are employed, a certificate must be obtained from the sanitary authority stating that the factory is provided on the stories above the ground floor with such means of escape for the persons employed therein as can reasonably be provided under the circumstances of the case. As regards all other factories in which more than forty persons are employed it is the duty of the sanitary authority from time to time to ascertain whether they are provided with such means of escape, and if not to serve on the owner,[1] within the meaning of the Public Health Act, 1875, a notice in writing

[1] For the definition of 'owner,' see note 2, p. 19.

specifying the measures necessary for providing such means, and requiring him to carry them out before a specified date. The owner will thereupon, notwithstanding any agreement with the occupier, have power to take the steps necessary for complying with these requirements, and unless they are duly complied with the owner will be liable to a fine not exceeding 1*l.* for every day that the non-compliance continues. In the event of a difference of opinion arising between the owner and the sanitary authority, it may be referred to arbitration.

Provisions as to nuisances applicable in the case of the majority of factories (Secs. 3 and 68).

It remains next to consider what are the provisions of the Factory and Workshop Act, 1878, with respect to cleanliness, ventilation, and overcrowding which apply to the factories to which Section 90 of the Public Health Act, 1875, is not applicable, i.e., to the great majority of factories. In substance they are practically the same as those of the last-mentioned section, except that they are enforceable by the factory inspector and not by the sanitary authority. They are as follows: 'A factory shall be kept in a cleanly state and free from effluvia arising from any drain, privy, or other nuisance. A factory shall not be so overcrowded while work is carried on therein as to be injurious to the health of the persons employed therein, and shall be ventilated in such a manner as to render harmless, as far as practicable, all the gases, vapours, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.' For the purpose of enforcing these provisions factory inspectors have under the Act very exceptional powers, identical with those exerciseable by a medical officer of health in connection with the sanitary regulations of retail bakehouses. For a description of these powers see page 122.

Enforceable by factory inspectors.

What provisions of the Public Health Act are applicable to all factories and workshops.

The definition of 'house' in Section 4 of the Public Health Act, 1875, as amended by the Factory and Workshop Act, 1878, and the provisions in the latter Act that the former Act shall apply to buildings in which persons are employed whatever their number may be, in like manner in which it previously applied to buildings where more than twenty were employed, render applicable to every factory and workshop, without exception, all the provisions of the Public Health Act, 1875, relating to houses, except those in Section 91 with respect to factories not kept in a cleanly state, or not ventilated, or overcrowded. Sanitary authorities have therefore full power to enforce their drainage; to require them to be drained into new sewers; to prevent their being built without proper privy accommodation, and in urban districts without drains; to enforce the provision of privy or earth closet accommodation in existing factories and workshops; to require them to be furnished with a proper supply of water; and, in fact, to insist on the same sanitary conditions being observed in respect to them as are enforceable under the Act in respect of ordinary houses. The exclusion of those places from the provisions of Section 91 is not, therefore, of so great importance to sanitary authorities as it might at first sight appear to be, and it will not in any way relieve a sanitary authority or their officers from the duty of seeing that the proprietors of every factory in their district comply with the requirements of the Public Health Act, 1875, in each of the above-mentioned respects.

Public Health Act, 1875, Secs. 23 and 24.

Sec. 35.

Sec. 25.

Secs. 36 and 37.

Sec. 62.

Additional powers as to privy accommodation where persons of both sexes are employed.

In addition to these general powers sanitary authorities have exceptional powers under the Public Health Act, 1875, and the Public Health Acts Amendment Act, 1890, of requiring accommodation in the way of sanitary conveniences in factories or other buildings in which

persons are employed or intended to be employed in any trade or business and also in the portions of coal mines above ground in which girls are employed. See pages 48 and 49.

XIII. BAKEHOUSES

Sanitary supervision of retail bakehouses in hands of sanitary authorities (Factory and Workshop Act, 1883.)

The sanitary supervision of bakehouses was from 1863 to 1878 in the hands of the local authorities. From 1878 to 1883 it was relegated to the factory inspectors.

In the latter year, so far as retail bakehouses are concerned, it was retransferred to the local authorities. These authorities outside[1] the metropolis are the urban and rural sanitary authorities.

Definition of 'retail bakehouse' (Sec. 18).

'Retail bakehouse' is defined by Section 18 of the Factory and Workshop Act, 1883, as meaning any bakehouse or place, the bread, biscuits, or confectionery baked in which are not sold wholesale but by retail, in some shop or place occupied together with such bakehouse.

Section 36 of the Factory and Workshop Act, 1891, has since provided that the provisions of the Act of 1883, relating to retail bakehouses, shall cease to apply to factories within the meaning of the Factory and Workshop Act, 1878.

Powers and duties of medical officer of health in connection with sanitary regulation of retail bakehouses (Sec. 18).

The powers and duties of a medical officer of health in connection with the sanitary supervision of these places are very exceptional. For this purpose the Act provides that he 'shall have and exercise all such powers of entry, inspection, taking legal proceedings and otherwise, as an inspector under the Factory and Workshop Act, 1878. He is also required, if he becomes aware of the employment of any child or young person under eighteen years of age, or woman in any retail bakehouse, to forthwith give written notice thereof to the factory inspector of the district.

Factory and Workshop Act, 1878 (Sec. 68).

Powers of entry and inspection.

The powers thus conferred enable a medical officer of health to enter, inspect, and examine a retail bakehouse at any reasonable time by day or by night, when he has reasonable cause to believe that any person is employed therein, and to enter by day any place which he has reasonable cause to believe to be a retail bakehouse, whether or not at the time of entry persons are employed therein. By Section 96 of the Act, 'night' is defined as 'the period between nine o'clock in the evening and six o'clock in the succeeding morning.' It follows therefore that 'day' must mean the period between six o'clock in the morning and nine o'clock in the evening. The baking of bread is usually carried on at night, and the baking of biscuits and confectionery by day.

Former restriction on entry into dwelling (Sec. 69).

Factory and Workshop Act, 1891 (Secs. 25 and 39).

Before entering in pursuance of the above powers, without the consent of the occupier, any room or place actually used as a dwelling as well as a bakehouse, it was formerly necessary for the medical officer of health, on an affidavit or statutory declaration of facts and reasons, to obtain written authority so to do from a Secretary of State, or a warrant from a justice of the peace. This restriction has now been removed by Sections 25 and 39 of the Factory and Workshop Act, 1891.

Power to take constable into certain bakehouses where obstruction is apprehended (Factory and Workshop Act, 1878, Sec. 68).

Where the bakehouse is a 'factory,' i.e. when 'within its close or curtilage, or precincts, steam, water, or other mechanical power is

[1] In London the local authorities are, in the City of London, the Commissioners of Sewers; and in the greater part of the remainder of London the Metropolitan vestries and district boards.

used in aid of the manufacturing process carried on there,' the medical officer of health may take a constable with him into it if he has reasonable cause to apprehend any serious obstruction in the execution of his duty. This power he will probably very seldom require to use. And the majority of retail bakehouses will not be factories within the meaning of the Act.

Other powers.

He is also empowered to make such examination and inquiry as may be necessary to ascertain whether the enactments for the time being in force relating to public health, and the enactments of the Factory and Workshop Acts are complied with, so far as respects the bakehouse and the persons employed therein; and to examine either alone or in the presence of any other person, as he thinks fit, with respect to matters under those Acts, every person whom he finds in the bakehouse; and to require such person to be so examined, and to sign a declaration of the truth of the matters respecting which he is examined; and to exercise such other powers as may be necessary for carrying the Factory and Workshop Acts into effect.

Power to take legal proceedings.

This last-mentioned power taken in conjunction with the provision above referred to, which declares that a medical officer of health 'shall have and exercise all such powers of taking legal proceedings and otherwise, as an inspector under the Factory and Workshop Act, 1878,' apparently enables him to take proceedings for enforcing the provisions of that Act and the Act of 1883, on behalf of the local authority. In the exercise of this power he will, however, if he is prudent, be guided by the clerk or legal adviser of the local authority; and in cases where that authority is a sanitary authority, it may be desirable, having regard to Section 259 of the Public Health Act, 1875, which provides that a sanitary authority 'may appear before any court, or in any legal proceeding by their clerk, or by any officer or member authorised generally, or in respect of any special proceeding by resolution of such authority,' that he should be fortified with a resolution of his authority, empowering him, either generally or in any special case, to take these proceedings.

Person committing offence for which occupier is liable (Sec. 86).

Power of occupier to exempt himself from fine on conviction of actual offender (Sec. 87).

In relation to the taking of these proceedings, it will be well to bear in mind that where an agent, servant, workman, or other person has committed an offence for which the occupier of the bakehouse is liable, he will be liable to the same fine as if he were the occupier; and that where the occupier of the bakehouse is charged with an offence against the Act, he will be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the Court at the time of hearing the charge; and if, after the commission of the offence has been proved, he proves that he had used due diligence to enforce the execution of the Act, and that the other person so charged by him had committed the offence without his knowledge, consent, or connivance, such person must be summarily convicted of the offence, and the occupier will be exempt from any fine.

In certain cases medical officer of health to proceed against actual offender and not against occupier.

When it is made to appear to the satisfaction of the medical officer of health at the time of discovering the offence, that the occupier had used all due diligence to enforce the execution of the Act, and also by what person the offence had been committed, and also that it had been committed without the knowledge, consent, or connivance of the occupier, and in contravention of his orders, the medical officer of health must proceed against the person whom he believes to be the

actual offender in the first instance, without first proceeding against the occupier.

Limitation of time as to summary proceedings (Sec. 91). Appeal to quarter sessions (Sec. 90). Application of fines (Sec. 89).

In all summary proceedings for offences and fines under the Act, the information must be laid within two months, or where the offence is punishable by imprisonment within three months after the commission of the offence. There is an appeal against the decision of the court of summary jurisdiction to the Court of Quarter Sessions. Fines imposed in pursuance of the Act will be paid into the Exchequer.

Statutory requirements as regards retail bakehouses.

Sanitary condition of bakehouses (Sec. 3).

It remains next to consider which are the statutory requirements as regards retail bakehouses, which are to be enforced under the foregoing provisions. In the first place every such bakehouse is required by Section 3 of the Factory and Workshop Act, 1878, to be kept in a cleanly state and free from effluvia arising from any drain, privy, or other nuisance. It must not be so overcrowded [1] while work is going on therein as to be injurious to the health of the persons employed therein; and it must be ventilated in such a manner as to render harmless, as far as practicable, all the gases, vapours, dust, or other impurities generated in the course of the manufacturing process or handicraft carried on therein that may be injurious to health.

Lime-washing and washing of the interior of bakehouses (Sec. 33).

For the purpose of securing the observance of the requirements of the Act as to cleanliness in every bakehouse, all the inside walls of the rooms of the bakehouse, and all the ceilings and tops of such rooms (where they be plastered or not) and all the passages and staircases of the bakehouses, if they have not been painted with oil, or varnished, once at least within seven years, must be limewashed once at least within every fourteen months, to date from the period when last limewashed; and if they have been so painted and varnished, must be washed with hot water and soap once at least within every fourteen months, to date from the time when last washed.

Extra requirements when the bakehouse is in a city, town, or place containing a population of more than 5,000 (Secs. 34 and 35).

Where the bakehouse is situate in any city, town or place containing, according to the last published census for the time being, a population of more than 5,000 persons, the washing of the painted or varnished interiors, and the lime-washing of the interiors, which have not been painted or varnished, are required to be done once in every six months, instead of once in every fourteen months, and when the interiors are painted or varnished, three coats of paint or varnish are necessary.

Fine for not keeping bakehouse in conformity with the Act (Sec. 81).

Any bakehouse in which there is a contravention of any of the above requirements will be deemed not to be kept in conformity with the Act, and the occupier [2] thereof will be liable to a penalty not exceeding ten pounds, which will be recoverable in a court of summary jurisdiction. The court, in addition to or instead of inflicting such fine, may order certain means to be adopted by the occupier, within the time named in the order, for the purpose of bringing his

[1] The requirements of this section, so far as they relate to overcrowding and ventilation, will not apply where persons are employed at home—that is to say, to a private house, room, or place, which, though used as a dwelling, is a bakehouse, and in which neither steam, water, nor other mechanical power is used, and in which the only persons employed are members of the same family dwelling there; or to a bakehouse which is conducted on the system of not employing children or young persons under eighteen years of age therein, and the occupier of which has served on a factory inspector notice of his intention to conduct the bakehouse on that system. See Section 61 of the Factory and Workshops Act, 1878.

[2] As to the cases where the person who has committed the offence is not the occupier, and the power of the occupier to exempt himself from the fine on the conviction of the actual offender, see p. 123.

bakehouse into conformity with the Act; and may upon application enlarge the time so named, but if after the expiration of the time as originally named or enlarged by subsequent order the order is not complied with, the occupier will be liable to a fine not exceeding one pound for every day that such non-compliance continues.

Provisions as to sleeping places near certain bakehouses (Sec. 35).

Where a bakehouse is situate in any city, town or place containing, according to the last published census for the time being, a population of more than 5,000 persons, no place on the same level with the bakehouse, and forming part of the same building, may be used as a sleeping place, unless it is effectually separated from the bakehouse by a partition extending from the floor to the ceiling, and unless there be an external glazed window of at least nine superficial feet in area, of which at the least four and a half superficial feet are made to open for ventilation. Any person who lets or occupies or continues to let or knowingly suffers to be occupied any place contrary to the above enactment, is liable to a fine not exceeding twenty shillings for the first offence, and five pounds for every subsequent offence.

Special provisions as to bakehouses not let or occupied as such before June 1, 1883 (Factory and Workshop Act, 1883, Sec. 15).

It is not lawful to let or suffer to be occupied as a bakehouse, or to occupy as a bakehouse, any room or place which was not so let or occupied before June 1, 1883, unless the following regulations are complied with:—

(I.) No water-closet, earth closet, privy or ashpit shall be within or communicate directly with the bakehouse.

(II.) Any cistern for supplying water to the bakehouse shall be separate and distinct from any cistern for supplying water to a water-closet.

(III.) No drain or pipe for carrying off fæcal or sewage matter shall have an opening within the bakehouse.

Any person contravening these provisions will be liable on summary conviction to a fine not exceeding forty shillings, and a further fine not exceeding five shillings for every day during which any room or place is occupied in contravention of the section after a conviction.

Penalty for bakehouse being unfit on sanitary grounds for use as a bakehouse (Sec. 16).

Where a court of summary jurisdiction is satisfied on the prosecution of the medical officer of health or the local authority that any room or place used as a bakehouse (whether or not the same was or was not so used before the passing of the Factory and Workshop Act, 1883, i.e. August 25, 1883) is in such a state as to be on sanitary grounds unfit for use or occupation as a bakehouse, the occupier will be liable on summary conviction to a fine not exceeding forty shillings, and on a second or any subsequent conviction not exceeding five pounds. In this case the court has the same power of ordering means to be taken for the purpose of removing the grounds of complaint as in cases where the bakehouse is not in conformity with the Factory and Workshop Act, 1878. See page 124.

On comparing this section, which applies to new and old bakehouses, with the preceding one, which applies only to bakehouses used as such since June 1, 1883, it is not easy to see why a distinction has been made between the two classes of bakehouse, nor what the precise difference of the law with respect to the two classes is. It appears by Section 16 to be implied that a non-compliance with the requirements of Section 15 does not render the bakehouse unfit on sanitary grounds for use or occupation as a bakehouse. It may be doubted whether this is an opinion which can reasonably be held. If it is correct, it would seem to follow that the requirements of Section 15 are in excess

of the necessities of the case. This is a view which the public, who consume the bread, are hardly likely to endorse.

Provisions of Public Health Act, 1875, applicable to bakehouses.

Except in the respects indicated above, bakehouses are subject to the same provisions of the Public Health Act, 1875, as other factories and workshops. A full description of these provisions has already been given under the head of 'Factories and Workshops,' pages 118 to 122.

XIV. SLAUGHTER-HOUSES

Definition of 'slaughter-house' (Public Health Act, 1875, Sec. 4).

In the Public Health Act, 1875, the expression 'slaughter-house' includes the buildings and places commonly called slaughter-houses and knackers' yards, and any building or place used for slaughtering cattle,[1] horses or animals of any description for sale.

Slaughter-houses provided by the sanitary authority, Sec. 169).

Any urban[2] sanitary authority may, if they think fit, provide slaughter-houses. If they avail themselves of this power, they must make bye-laws[3] with respect to the management and charges for the use of any slaughter-houses so provided.

Advantages of public slaughter-houses.

Many local Acts contain provisions enabling the sanitary authority, when they themselves provide slaughter-houses, to prohibit the slaughtering of cattle elsewhere. No such provisions, however, are contained in the Public Health Act, 1875. There are, of course, manifest advantages in keeping slaughter-houses as directly as possible under the control and supervision of the sanitary authority and their officers, and although, as will be seen, large powers of control and inspection are given to urban sanitary authorities, in the case of private slaughter-houses these powers are from the nature of the case less absolute than those which the sanitary authority possess when they are themselves the owners of the slaughter-houses.

Regulation of slaughter-houses in urban districts.

For the purpose of enabling any urban sanitary authority to regulate slaughter-houses within their district the provisions of the Towns Improvement Clauses Act, 1847, with respect to slaughter-houses are incorporated with the Public Health Act, 1875. But nothing in the incorporated provisions is to prejudice or affect any rights, powers, or privileges of any persons incorporated by any local Act passed before the passing of the Public Health Act, 1848, for the purpose of making and maintaining slaughter-houses.

Certain slaughter-houses to be registered, others to be licensed (Towns Improvement Clauses Act, 1847, Secs. 125–127).

The provisions thus incorporated recognise two classes of slaughter-houses, viz., slaughter-houses which were in use and occupation at the time of the passing of the special Act (i.e., at the time when the provisions in the Public Health Act relating to slaughter-houses were first applied to the district), and which have continued to be used as slaughter-houses ever since, and slaughter-houses which do not come

[1] The word 'cattle' is defined by the Towns Improvement Clauses Act, 1847 (the provisions of which, so far as they relate to slaughter-houses, are, as will be seen below, incorporated with the Public Health Act, 1875), as including horses, asses, mules, sheep, goats, and swine. But the slaughtering of horses and other cattle, when not killed for butcher's meat, is not regulated by the Public Health Act, 1875, but by the 26 Geo. III., c. 71, amended by the 37 and 38 Vict., c. 67.

[2] The provisions of the Public Health Act, 1875, relating to slaughter-houses may, like any other provisions of the Act, be put in force in the whole or part of any rural district, see p. 12. It is very rarely, if ever, that a rural sanitary authority desires to provide slaughter-houses; but the powers of the Act relating to the regulation of slaughter-houses are frequently put in force in rural districts, and it is believed with very beneficial results.

[3] As regards the making, publication, and enforcement of these bye-laws and their confirmation by the Local Government Board, see note 2, p. 33.

within this description. The latter class may not be used or occupied as slaughter-houses until they have been licensed by the sanitary authority. The former class do not require a license, but they must be registered at the office of the sanitary authority. Penalties are imposed by the Act on persons using, or suffering to be used, any place as a slaughter-house until it has been licensed or registered, as the case may be, in accordance with the requirements of the Act.

Duration of license (Public Health Acts Amendment Act, 1890, Sec. 29).

Prior to the adoption of Part III. of the Public Health Acts Amendment Act, 1890, in any district, licenses granted under the above enactment will not be annual licenses, but will have been granted once for all. Nor in those cases is a fresh license necessary when part of the slaughter-house is rebuilt, or when a slight addition is made to the slaughter-house (see *Hanman* v. *Adkins*, 40 J. P., 744, *Brighton Local Board* v. *Stenning*, 15 L. T. (N. S.), 567.

But in any urban sanitary district, in which Part III. of the Act of 1890 has been adopted, licenses granted after such adoption for the use and occupation of places as slaughter-houses are to be in force for such time or times only, not being less than twelve months, as the urban sanitary authority shall think fit to specify in their licenses.

Views of Local Government Board as to site and structure of slaughter-houses.

As regards slaughter-houses, for which the license of the sanitary authority is required, the Local Government Board, in the preliminary memorandum to their model bye-laws relating to slaughter-houses, state that they have been advised that in the exercise of the discretionary power of licensing conferred by the Act, the following rules as to site and structure should influence the decisions of the sanitary authority upon each application for a license:—

1. The premises to be erected, or to be used and occupied as a slaughter-house, should not be within 100 feet of any dwelling-house, and the site should be such as to admit of free ventilation by direct communication with the external air on two sides at least of the slaughter-house.

2. Lairs for cattle in connection with the slaughter-house should not be within 100 feet of a dwelling-house.

3. The slaughter-house should not in any part be below the surface of the adjoining ground.

4. The approach to the slaughter-house should not be on an incline of more than one in four, and should not be through any dwelling-house or shop.

5. No room or loft should be constructed over the slaughter-house.

6. The slaughter-house should be provided with an adequate tank or other proper receptacle for water, so placed that the bottom shall not be less than six feet above the level of the floor of the slaughter-house.

7. The slaughter-house should be provided with proper ventilation.

8. The slaughter-house should be well paved with asphalte or concrete, and laid with proper slope and channel towards a gully, which should be properly trapped and covered with a grating, the bars of which should not be more than three-eighths of an inch apart. Provision should also be made for the effectual drainage of the slaughter-house.

9. The surface of the walls in the interior of the slaughter-house should be covered with hard, smooth, impervious material to a sufficient height.

10. No water-closet, privy, or cesspool should be constructed

within the slaughter-house. There should be no direct communication between the slaughter-house and any stable, water-closet, privy, or cesspool.

11. Every lair for cattle in connection with the slaughter-house should be properly paved, drained, and ventilated. No habitable room should be constructed over any lair.

Bye-laws for regulation of slaughter-houses (Towns Improvement Clauses Act, 1847, Sec. 128).

It is the duty of the sanitary authority from time to time, by bye-laws,[1] to make regulations for the licensing, registering, and inspection of slaughter-houses and knackers' yards, and preventing cruelty therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours, and requiring them to be provided with a proper supply of water; and pecuniary penalties not exceeding 5*l.* for any one offence, and, in the case of a continuing nuisance, 10*s.* a day for every day during the continuance of the nuisance, after the conviction for the first offence, may be imposed on persons breaking such bye-laws.

Model bye-laws of Local Government Board.

These bye-laws, except so far as they relate to licensing and registration, may be made to apply to both of the classes of slaughter-houses above referred to. The Local Government Board have issued an elaborate series of model bye-laws under the above enactment, which should be consulted by any authority proposing to make or revise bye-laws for the regulation of slaughter-houses. They provide (*inter alia*) for the furnishing by the applicants for licenses of the fullest written particulars with respect to the premises proposed to be used for the purposes of the slaughter-house and the buildings erected on such premises, their mode of construction, and means of water supply, drainage, lighting, and ventilation, the means of access for cattle from the nearest street or public thoroughfare, the number, position, and dimensions of the stalls, pens, or lairs to be provided, and the number of animals for which accommodation will be provided therein. They require every occupier of a slaughter-house at all reasonable times to afford free access to every part of the premises to the medical officer of health, the inspector of nuisances, or the surveyor of the sanitary authority, or to any committee specially appointed by the sanitary authority on their behalf for the purposes of inspection. They also impose on the occupier the duty of causing every animal brought to the slaughter-house and confined upon the premises previously to being slaughtered, to be provided with a sufficient supply of wholesome water, and prescribe the means whereby the animals may be felled and slaughtered with the infliction of as little pain and suffering as practicable. They require the means of ventilation and the drainage provided in, or in connection with, the slaughter-house to be kept at all times in proper order and efficient action, and every part of the internal surface of the walls, and of the floor or pavement of the slaughter-house (1) to be kept at all times in good order and repair, so as to prevent the absorption therein of any blood, or liquid refuse, or filth which may be spilled or splashed thereon, or any offensive or noxious matter which may be deposited thereon or brought in contact therewith; (2) to be thoroughly washed with limewash at least four times in every year; and (3) to be thoroughly washed and cleansed, when polluted, within three hours after the slaughtering or dressing of any animal. They prohibit the occupier of any slaughter-house from

Particulars to be given on application for license.

Free access to be allowed to officers and committees of sanitary authority. Animals to be supplied with water.

Means to be taken for slaughtering them as painlessly as practicable.

Ventilation, drainage, cleansing, &c., of slaughter-houses.

[1] As regards the making, publication, enforcement, and confirmation of these bye-laws, see note 2, p. 33.

keeping or allowing to be kept in the slaughter-house any dog, or any animal, the flesh of which may be used for the food of man, unless such animal be so kept in preparation for the slaughtering thereof on the premises, in which case it must not be kept on the premises for a longer period than may be necessary for the purpose of preparing it, whether by fasting or otherwise, for the process of slaughtering, nor elsewhere than in the pounds, stalls, pens, or lairs provided on the premises. They provide for the removal from the premises of the hide or skin, fat and offal of every animal slaughtered thereon within twenty-four hours after the completion of the slaughtering, and render it necessary for every occupier of a slaughter-house to cause the means of water supply provided in or in connection with the slaughter-house, to be kept at all times in proper order and efficient action, and to provide for use on the premises (1) a sufficient supply of water for the purpose of thoroughly washing and cleansing the floor or pavement, every part of the internal surface of every wall of the slaughter-house, and every vessel or receptacle which may be used for the collection and removal from the slaughter-house of any blood, manure, garbage, filth, or other refuse products of the slaughtering of any cattle, or the dressing of any carcase on the premises; and (2) a sufficient number of vessels or receptacles, properly constructed of galvanised iron or other non-absorbent material, and furnished with closely-fitting covers for the purpose of receiving such refuse products. The contents of these vessels are to be removed from the premises once at least in every twenty-four hours, after which the vessels are in all cases to be thoroughly cleansed, being always kept clean when not in actual use.

Dogs or animals, the flesh of which may be used for food, not to be kept in slaughter-houses.

Hides, offal, &c., to be removed within twenty-four hours. Sufficient water supply and receptacles for blood, garbage, &c., to be provided.

The justices before whom any person is convicted of killing or dressing any cattle[1] contrary to the provisions of the Act, or of the non-observance of any of the bye-laws or regulations made by virtue of the Act, in addition to the penalty imposed by the Act, may suspend for any period not exceeding two months the license granted to such person, or in case such person be the owner or proprietor of any registered slaughter-house, may forbid for any period not exceeding two months the slaughtering of cattle[1] therein; and upon the conviction of any person for a second or other subsequent offence, they may, in addition to the penalty, declare the license for the slaughter-house revoked; or if the offender be the owner or proprietor of a registered slaughter-house, forbid absolutely the slaughtering of cattle therein.

Power of justices to forbid slaughtering in licensed or registered slaughter-houses in certain cases (Towns Improvement Clauses Act, 1847, Sec. 129).

Where this is done, a penalty of two pounds a day is imposed by the Act on any person who, contrary to the order of the justices, slaughters cattle in, or otherwise uses, or allows to be used, a slaughter-house to which the order applies.

If the occupier of any building licensed by the urban sanitary authority to be used as a slaughter-house for the killing of animals intended as human food, is convicted by a court of summary jurisdiction of selling, or exposing for sale, or for having in his possession, or on his premises, the carcase of any animal, or any piece of meat or flesh, diseased, or unsound, or unwholesome, or unfit for the use of man as food, the court may revoke the license, if Part III. of the Public Health Acts Amendment Act, 1890, has been adopted for the district.

Revocation of license on conviction for sale of meat unfit for food (Public Health Acts Amendment Act, 1890, Sec. 31).

The medical officer of health, the inspector of nuisances, and any other officer appointed by the sanitary authority for that purpose, may at all reasonable times, with or without assistants, enter into and

[1] See note 1 on p. 126.

Powers of officers to enter and inspect slaughter-houses, &c. (Towns Improvement Clauses Act, 1847, Sec. 131).

inspect any place or building within the district of the authority kept or used for the sale of butchers' meat, or for slaughtering cattle,[1] and examine whether any cattle, or the carcase of any cattle, is deposited there ; and in case such officer shall find any cattle, or the carcase or part of the carcase of any beast which appears unfit for the food of man, he may seize and carry the same before a justice, who is required forthwith to order the same to be further inspected and examined by competent persons. If it is found by them to be unfit for the food of man, he must order it to be immediately destroyed or otherwise disposed of in such way as to prevent its being exposed for sale or used for the food of man.

Penalties not exceeding ten pounds for every such animal, carcase, or part of a carcase so found are imposed on the person to whom it belongs, or in whose custody it is found.

A penalty not exceeding five pounds is also imposed on offenders who hinder or obstruct the officer of the sanitary authority in the course of his duty under the above enactment.

Notices to be affixed to slaughter-houses (Public Health Act, 1875, Sec. 131).

The owner or occupier of any slaughter-house, licensed or registered under the Public Health Act, 1875, is required within one month after the licensing or registration of the premises, to affix and keep undefaced and legible on some conspicuous place on the premises, a notice with the words 'Licensed Slaughter-House,' or 'Registered Slaughter-House,' as the case may be. Any person who makes default in this respect, or who neglects or refuses to affix or renew such notice after requisition in writing from the urban sanitary authority, is liable to a penalty not exceeding 5*l.* for every such offence, and of 10*s.* for every day during which such offence continues after conviction.

Notice of change of occupation of slaughter-house (Public Health Acts Amendment Act, 1890, Sec. 30).

In any urban sanitary district in which Part III. of the Public Health Acts Amendment Act, 1890, has been adopted, upon any change of occupation of any building within the district, registered or licensed for use and used as a slaughter-house, the person thereupon becoming the occupier or joint-occupier is required to give notice in writing of the change of occupation to the inspector of nuisances. Any person who fails or neglects to give such notice within one month after the change of occupation occurs, is liable to a penalty not exceeding 5*l.* Notice of this enactment must be endorsed on all licenses granted after the adoption of Part III. of the Act.

XV. UNSOUND OR DISEASED MEAT, &c.

Powers of medical officers of health and inspectors of nuisances to inspect unsound meat, &c. (Public Health Act, 1875, Sec. 116; Public Health Acts Amendment Act, 1890, Sec. 28, (1).)

The principal provisions of the Public Health Act, 1875, relating to articles of food which are unsound, diseased, or unfit for the food of man, are contained in Sections 116 to 119, the operation of which extends to 'any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk exposed for sale, or deposited in any[2] place for the purpose of sale or of preparation for sale, and intended for the food of man.' This list of articles is tolerably comprehensive ; but there are some omissions from it ; e.g. it does not include eggs, butter, or cheese.

[1] See note 1 on p. 126.

[2] As regards the sale of unwholesome meat or provisions in markets or fairs, see p. 131. With respect to meat unfit for the food of man found in any building kept or used for the sale of butcher's meat, or for slaughtering cattle, see above on this page.

In districts where Part III. of the Public Health Acts Amendment Act, 1890, is in force, the above sections will apply to all articles intended for the food of man sold or exposed for sale, or deposited in any place for the purpose of sale, or of preparation for sale within the district of any sanitary authority. Any medical [1] officer of health or inspector of nuisances may, at all reasonable times, inspect and examine any article to which the above sections apply, the proof that it was not exposed or deposited for the purpose of sale or of preparation for sale, and was not intended for the food of man, resting with the party charged; and if on such examination or inspection it appears to such officer or inspector to be diseased, or unsound, or unwholesome, or unfit for the use of man, he may seize and carry it away himself, or by an assistant, in order to have it dealt with by a justice.

Penalty for hindering medical officer of health or inspector of nuisances from inspecting meat, &c. (Public Health Act, 1875, Sec. 118).

A penalty not exceeding 5*l.* is imposed on any person who in any manner prevents any medical officer of health or inspector of nuisances from entering any premises and inspecting any article in the above list, or who obstructs or impedes him when carrying into execution the provisions of the Public Health Act.

Search warrant may be granted by justice (Sec. 119).

On complaint made on oath, by a medical officer of health, or by an inspector of nuisances, or other officer of a local authority, any justice may grant a warrant to any such officer to enter any building, or part of a building, in which such officer has reason to believe that there is kept or concealed any article to which these sections apply, and to search for, seize, or carry away any such article, in order to have the same dealt with by a justice.

Power of justice to order destruction of diseased or unsound meat, &c. (Sec. 117).

If it appears to the justice that any article seized under any of the foregoing provisions is diseased, or unsound, or unwholesome, or unfit for the food of man, he must condemn the same and order it to be destroyed, or so disposed of as to prevent it from being exposed for sale or used for the food of man; and the person to whom the same belongs, or did belong at the time of exposure for sale, or in whose possession or on whose premises the same was found, will be liable to a penalty not exceeding 20*l.* for every article so condemned, or at the discretion of the justice to imprisonment for a term of not more than three months.

Extension of this power (Public Health Acts Amendment Act, 1890, Sec. 28, (2)).

In districts in which Part III. of the Public Health Acts Amendment Act, 1890, has been adopted, a justice may condemn any article to which the foregoing sections apply, and order it to be destroyed or disposed of, as above mentioned, if satisfied on complaint being made to him that such article is diseased, unsound, unwholesome, or unfit for the food of man, although the same has not been seized as above provided. This provision removes the inconvenience that resulted from requiring the whole of a carcase, or of any other mass of unsound food, to be seized and brought before the magistrate before it could be condemned.

Sale of unwholesome meat or provisions in market or fair (Markets and Fairs Clauses Act, 1847, Sec. 15).

Section 15 of the Markets and Fairs Clauses Act, 1847, which is incorporated with the Public Health Act, 1875, and is rendered applicable to any market established or regulated by the sanitary authority, imposes a penalty not exceeding 5*l.* on every person dealing in or exposing for sale any unwholesome meat or provisions in the market or fair; and empowers any inspector of provisions, appointed

[1] As to the duties of medical officers of health and inspectors of nuisances in this matter, see pp. 205 and 212.

Markets and Fairs Clauses Act, 1847, Sec. 20.

by the undertakers,[1] to seize such unwholesome meat or provisions, and carry the same before a justice. Where this is done, the justice must order the meat or provisions seized to be further inspected and examined by competent persons, and if on such inspection and examination they are found unfit for the food of man, he must order them to be immediately destroyed or otherwise disposed of, in such a way as to prevent them from being exposed for sale or used for the food of man.

Sec. 15.

Every person who obstructs or hinders the inspector of provisions from seizing or carrying away meat or provisions under the above enactments is liable to a penalty not exceeding 5*l.* for every such offence.

Where market or fair does not belong to the sanitary authority.

In many cases the markets or fairs in a sanitary district do not belong to the sanitary authority; in any such case the above provisions will not apply, unless the market or fair is regulated by a Local Act, with which the Markets and Fairs Clauses Act is incorporated. If, however, the Local Act is a modern one, the above provisions will probably be incorporated with it, and will apply with the substitution of the undertakers (i.e. the persons authorised by the Local Act to construct or regulate the market or fair) for the sanitary authority.

Bye-laws for preventing sale of unwholesome provisions in market or fair (Sec. 42).

Section 42 of the Markets and Fairs Clauses Act, 1847, which is also incorporated with the Public Health Act, 1875, enables the sanitary authority, when the market or fair belongs to or is regulated by them, and the undertakers in other cases to make bye-laws[2] 'for preventing the sale, or exposure for sale, of unwholesome provisions in the market or fair.' This power, however, has seldom, if ever, been exercised by a sanitary authority. In the memorandum prefixed to their model bye-laws as to markets, the Local Government Board express the opinion that, having regard to Section 15 of the Act, and to the stringent provisions of Sections 116 to 119 of the Public Health Act, 1875, bye-laws upon this subject are unnecessary.

XVI. HORSE-FLESH

Reasons for placing the sale of horse-flesh for human food under regulations.

Popular suspicion has long identified horse-flesh with much of the unsound and diseased meat which finds its way into the market for human food; nor can it be denied that there are some grounds for this suspicion. Very considerable quantities of horse-flesh have of late years been brought into the larger towns of Lancashire, notably Manchester and Salford, for the purpose of being sold as beef, or made up into sausages and meat pies. There can of course be no reason why the flesh of a healthy horse, which has met its death by accident, should be unwholesome, and possibly such flesh is occasionally sold for human food, though probably it more frequently goes to feed the nearest pack of hounds. But it requires a very credulous mind to believe that the greater part of the horse-flesh which is sold for human food is that of healthy animals which have been killed in their prime. If horses were bred for the purpose of being eaten, horse-flesh on an average would cost in this country nearly twice as much as beef. On the other hand, it is notorious that the great majority of

[1] Where the market or fair belongs to the sanitary authority they will be the undertakers.

[2] These bye-laws, if made by the sanitary authority, will be subject to the provisions of the Public Health Act, 1875, relating to bye-laws, as to which see note 2, p. 33.

worn-out and diseased horses are slaughtered in knackers' yards or elsewhere and their carcases sold. Under these circumstances it would be strange if some of their flesh were not occasionally sold as butcher's meat, or made up into polonies, potted meat, or some other form of seasoned dainty, of which the origin cannot readily be recognised. It was therefore manifestly desirable that the sale of horse-flesh should be placed under proper regulation ; and with this object a Bill brought in by Mr. Lees Knowles, one of the members of Parliament for Salford, was passed in 1889. The Act, which is entitled 'The Sale of Horse-flesh, &c. Regulation Act, 1889, provides that no person shall sell, offer, expose, or offer for sale any horse-flesh [1] for human food, elsewhere than in a shop, stall, or place, over or upon which there shall be at all times painted, posted, or placed in legible characters, of not less than four inches in length, and in a conspicuous position, and so as to be visible throughout the whole time, whether by night or day, during which such horse-flesh is being offered or exposed for sale, words indicating that horse-flesh is sold there. It also prohibits the sale of horse-flesh for human food to any purchaser who has asked to be supplied with some meat other than horse-flesh, or with some compound article of food other than horse-flesh.

Sale of Horse-flesh Regulation Act, 1889. Sec. 1.

Sec. 2.

Any person offending against any of the provisions of the Act is liable to a penalty not exceeding 20*l.*, to be recovered summarily ; and if any horse-flesh is proved to have been exposed for sale to the public in any shop, stall, or eating-house other than a shop, stall, or place marked as directed in the first section of the Act, without anything to show that it was not intended for sale for human food, the onus of proving that it was not intended for sale for human food will rest upon the person exposing it for sale.

Sec. 6.

The machinery for the inspection and examination of meat suspected to be horse-flesh, exposed for sale, or deposited for the purpose of sale or of preparation for sale, and intended for human food, in any place not registered in accordance with the provisions of the Act, and the obtaining of a warrant for search, and the seizing and taking of suspected meat before a justice, is very similar to that contained in Sections 116 to 119 of the Public Health Act, 1875. The principal points of difference are that the power of inspecting is given not only to the medical officer of health and inspector of nuisances but also to any other officer of the sanitary authority [2] acting on the instructions of or appointed by such authority ; and that the justice, instead of requiring the meat to be destroyed, or so disposed of as to prevent it from being exposed for sale or used for the food of man, may make such order with regard to the disposal thereof as he may think desirable.

Secs. 3–5.

The two main objects of the Act are (1) to indicate to the sanitary authority and the public the places where horse-flesh is sold for human food ; and (2) to prevent horse-flesh from being palmed off upon the purchaser as beef. If the Act is duly enforced, its provisions, while not checking the sale of wholesome horse-flesh, are calculated to diminish the amount of diseased horse-flesh sold for human food.

General effect of Act.

[1] For the purposes of the Act 'horse-flesh' is defined as meaning horse-flesh, cooked or uncooked, alone or accompanied by or mixed with any other substance, and as including the flesh of asses and mules.

[2] As regards the application of the Act to London, see p. 322.

XVII. ADULTERATION

Powers and duties of local authorities as regards adulteration.

The law of adulteration is contained in the Sale of Food and Drugs Act, 1875, the Sale of Food and Drugs Act Amendment Act, 1879, the Margarine Act, 1887, and the Local Government Act, 1888. Before explaining the somewhat complicated provisions of these Acts as regards offences and prosecutions, it will be convenient to state the powers and duties of the various local authorities who are concerned in their execution.

(*a*) The Sale of Food and Drugs Acts, 1875 and 1879

Appointment of analysts (Sale of Food and Drugs Act, 1875, Sec. 10).

Section 10 of the Sale of Food and Drugs Act, 1875, provided that in the metropolis the Commissioners of Sewers and the Metropolitan Vestries and District Boards, and in the rest of the country, in counties the court of quarter sessions, and in boroughs with separate courts of quarter sessions or with separate police establishments, the town council might, where no appointment had hitherto been made, and in all cases as and when vacancies in the office occurred, or when required to do so by the Local Government Board, should for their respective cities, districts, counties or boroughs appoint one or more persons possessing competent knowledge, skill, and experience as analysts of all articles of food[1] and drugs[2] sold within such cities, districts, counties or boroughs; and should pay to such analysts such remuneration as should be mutually agreed upon, and might remove him or them as they should deem proper; but that such appointments and removals should be subject to the approval of the Local Government Board, who might require satisfactory proof of competency to be supplied to them, and might give their approval absolutely or with modifications as to the period of the appointment or removal or otherwise. The same section provided that no person should thereafter be appointed an analyst for any place under the section who should be engaged directly or indirectly in any trade or business connected with the sale of food or drugs in such place.

Transfer of powers to county councils in counties and boroughs with populations of less than 10,000 (Local Government Act, 1888, Secs. 3, 38, and 39).

The above powers and duties in counties and in boroughs with a less population than 10,000 at the census of 1881 have been transferred to the county council by the operation of Section 3 [x], 38 [2] [*b*], and 39 [1] [*b*] of the Local Government Act, 1888. This transfer will, it may not unreasonably be hoped, lead to the Act being more effectually put in force in the smaller boroughs.

Powers of town council to engage the services of the analyst of another borough or of the county (Sale of Food and Drugs Act, 1875, Sec. 11).

The town council of any borough with a population exceeding 10,000 at the census of 1881 may agree that the analyst appointed by any neighbouring borough or for the county in which the borough is situated shall act for the borough during such time as they think proper, in which case they must make due provision for the payment of his remuneration; and if he consents, he will during such time be the analyst for the borough for the purposes of the Sale of Food and Drugs Acts.

Quarterly reports of analysts (Sec. 19).

Every analyst appointed under these Acts or under any Act repealed by them is required to report quarterly to the authority appointing him the number of articles analysed by him under the Acts during the

[1] 'Food' is defined by the Act as including every article used for food or drink by man, other than drugs or water.

[2] 'Drugs' includes medicine for internal or external use.

foregoing quarter, and to specify the result of such analysis, and the sum paid to him in respect thereof, and such report must be presented at the next meeting of the authority appointing him; and every such authority must annually transmit to the Local Government Board[1] at such time[2] and in such form as that Board direct, a certified copy of such quarterly report.

Sale of Food and Drugs Act, 1875 (Sec. 2).

It will be seen from the foregoing provisions that a sanitary authority as such has no powers and duties in connection with the appointment of analysts for the purposes of the last-mentioned Acts, these powers and duties outside of the metropolis being vested in the county councils and the town councils of boroughs with a population exceeding 10,000 inhabitants at the census of 1881. Sanitary authorities and their officers have, however, important powers as regards the institution of proceedings under the Acts; and having regard to the effect of adulteration on the public health, it is undoubtedly their duty to exercise these powers in all cases in which they have reason to suspect that adulterated food or drugs are sold within their district.[3]

Powers and duties of officers of sanitary authorities, &c., as regards proceedings under the Sale of Food and Drugs Acts.

Sale of Food and Drugs Act, 1875 (Sec. 13).

Any medical officer of health, inspector of nuisances, or inspector of weights and measures, or any inspector of a market, or any police constable under the direction and at the cost of the local authority appointing such officer, inspector or constable, or charged with the execution of the Sale of Food and Drugs Acts, may procure any sample of food or drugs,[4] and if he suspect the same to have been sold to him contrary to any provision[5] of these Acts, it is his duty to submit the same to be analysed by the analyst of the district or place for which he acts; and if there be no such analyst then acting for such place, to the analyst of another place; and such analyst must, upon receiving the payment provided by the Act, with all convenient speed analyse the same, and give a certificate to such officer, wherein he shall specify the result of such analysis.

The payment to be made to the analyst in these cases will be the same as that required to be made by private persons[6] submitting

Payment to be made to analyst (Sec. 12).

[1] In the Annual Reports of the Local Government Board the contents of these reports are summarised in such a manner as to show the number of samples analysed each year, the results of the analyses, and the general effect of the working of the Acts in the different parts of the country.

[2] The Local Government Board have directed that the certified copies of the reports in question shall be sent to them in the month of January in each year, and they have prescribed a form of letter for the transmission of the reports.

[3] Deputies may be employed to purchase articles for the purpose of analysis, and their employment will usually be a judicious precaution when the officers themselves are known to the tradesmen from whom the articles are purchased. When this is done, the officers employing the deputy may nevertheless institute proceedings under the Acts against the seller if the article is found to be adulterated. The sample need not be delivered by the deputy to the analyst, but may be so delivered by another person. *Horder* v. *Scott*, L. R. 5 Q. B. D. 552; 49 L. J. M. C. 78; 42 L. T. (N.S.) 660; 28 W. R. 918. In *Stace* v. *Smith* (45 J. P. 141) an officer sent a deputy into a shop to buy butter. The deputy bought it, and brought it to his employer, who then went inside and gave notice to the shopkeeper that he had bought the butter for analysis, and then and there divided into parts, &c., as required by the Act, and took the subsequent proceedings against the shopkeeper. He was held to be the purchaser within the meaning of the Act, and to have been the proper person to take the proceedings.

[4] For the definition of 'food' and 'drugs,' see notes on the preceding page.

[5] As to these provisions, see pp. 137 and 138.

[6] It is competent for any private person to take proceedings under the Acts, but this consideration should not deter local authorities from taking proceedings. As a matter of fact it is comparatively seldom that proceedings are taken by individuals. According to the Twenty First Annual Report of the Local Govern-

samples for analysis, i.e. a sum not exceeding ten shillings and sixpence where the article is purchased in any district, county, city, or borough where there is any analyst appointed, and where the article is purchased in any other place, such sum as may be agreed upon between the analyst and the person submitting the article for analysis.

Form of certificate (Sec. 18).

The certificate of the analysis must be in the following form, or to the like effect:—'To —— [name of person submitting article for analysis]. I, the undersigned public analyst for the do hereby certify that I received on the day of , 18 , from [name of person delivering the sample] a sample of for analysis, which then weighed [when the article cannot conveniently be weighed this passage may be erased, or the blank left unfilled], and have analysed the same, and declare the result of my analysis to be as follows:—

'I am of opinion that the same is a sample of genuine ; or I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under.

'Observations.[1]

'As witness my hand this day of , 18 .

'A. B.

at .'

Special provisions as regards the obtaining of samples of milk in course of delivery (Sale of Food and Drugs Act Amendment Act, 1879, Sec. 3).

Any officer or constable, who under the foregoing provisions of the Act of 1875 is authorised to procure samples of food and drugs and submit the same for analysis, is empowered by the Sale of Food and Drugs Act Amendment Act, 1879, to procure at the place of delivery any sample of any milk in course of delivery to the purchaser or consignee in pursuance of any contract for the sale of such milk to such purchaser or consignee; and if there is reason to suspect that the same has been sold contrary to any of the provisions of the Act of 1875, the milk so procured must be submitted to analysis and analysed, and proceedings must be taken and penalties enforced on conviction in like manner as if the purchase had been made from the seller or consignor under Section 13 of the Act of 1875.

Formalities to be dispensed with on these occasions.

It has been decided (*Rouch* v. *Hall*, C.R. 6 Q.B.D. 17; 50 L.J., M.C. 6; 44 L.T. (N.S.) 183; 29 W.R. 304; 45 J.P. 220) that when a sample of milk is thus taken in course of delivery, it is not necessary to notify to the seller the intention [2] of having the sample analysed, or to deliver [2] to him or to his agent a part of the sample in accordance with Section 14 of the Act of 1875.

Penalty for refusing to give milk for analysis in these cases (Sec. 4).

If the seller or consignor or any person entrusted by him for the time being with the charge of the milk refuses to allow the officer or

ment Board (p. cxlvii) the number of such cases in 1891 was only 177, as compared with 28,851 cases in which the proceedings were taken by the officers of local authorities.

[1] Here the analyst may insert at his discretion his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary or otherwise, and whether the ingredients or materials mixed are or are not injurious to health. In the case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst must specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

[2] As to these requirements, see p. 138.

constable to take the quantity which he requires for the purpose of the analysis, he will be liable to a penalty not exceeding 5*l*.

Penalty for refusing to sell articles to officers or constables in other cases (Sale of Food and Drugs Act, 1875, Sec. 17; Sale of Food and Drugs Act Amendment Act, 1879, Sec. 5).

In other cases, where an officer or constable authorised by the Act of 1875 to procure samples and to submit them to analysis, applies to purchase any article of food or any drug exposed to sale or on sale by retail on any premises or in any shop or stores, or in any street or open place of public resort, and tenders the price for the quantity which he requires for the purpose of analysis, not being more than is reasonably requisite, and the person exposing the same for sale refuses to sell it to such officer or constable, such person will be liable to a penalty not exceeding 10*l*.

Offences and penalties (Sale of Food and Drugs Act, 1875, Secs. 3–9).

There are so many different kinds of adulteration that it has been considered desirable to make distinctions between them in the Sale of Food and Drugs Acts, and to define each class of offence under those Acts separately. The first offence thus described is the most serious; and it has fortunately of late years been a comparatively rare one. It consists of the mixing of deleterious matters with the articles adulterated. Formerly this was a common form of fraud, but it is now found equally profitable and less dangerous to have recourse to less easily detected adulterants. The section of the Act of 1875 dealing with this offence is the third, which provides that no person shall mix, colour, stain or powder, or order or permit any other person to mix, colour, stain or powder, any article of food with any ingredient or material, so as to render the article injurious to health, with intent that the same may be sold in that state; and that no person shall sell [1] any such article so mixed, coloured, stained or powdered under a penalty in each case not exceeding 50*l*. for the first offence; and that every offence after a conviction for the first offence shall be a misdemeanour, for which the offender will on conviction be liable to be imprisoned with hard labour for a period not exceeding six months.

Injuriously affecting quality or potency of drugs (Sec. 4).

Similar penalties are imposed on persons who, except for the purpose of compounding as described in the Act, mix, colour, stain or powder, or order or permit any other person to mix, colour, stain or powder any drug with any ingredient or material so as to affect injuriously its quality or potency, with intent that the same may be sold in that state, or who sell any drug so mixed, coloured, stained or powdered.

Exemption in case of proof of absence of knowledge (Sec. 5).

No person will, however, be liable to be convicted under either of the foregoing enactments in respect of the sale of any article of food, or of any drug, if he shows to the satisfaction of the justice or court before whom he is charged that he did not know of the article of food or drug sold by him being so mixed, coloured, stained or powdered as above mentioned, and that he could not with reasonable diligence have obtained that knowledge.

It is also an offence under the Act, punishable with a penalty not exceeding 20*l*., to sell to the prejudice [2] of the purchaser any article of

[1] See, however, Section 5 below as to cases in which the vendor proves absence of knowledge, and that he could not with reasonable diligence have obtained such knowledge. As to cases where the article has been purchased by the vendor with a written warranty, see p. 141.

[2] Section 2 of the Sale of Food and Drugs Act Amendment Act, 1879, has provided that in any prosecution under these provisions it shall be no defence to allege that the purchaser having bought only for analysis was not prejudiced by such sale. The same section has also declared that it shall not be a good defence to allege that the article of food, or the drug in question, though defective in

Prohibition of the sale of articles of food and drugs, not of proper nature, substance, or quality (Sec. 6).

food or any drug, which is not of the nature, substance and quality of the article demanded by the purchaser, excepting the following cases, viz :—

(1) When any matter or ingredient not injurious to health has been added to the food or drug, because the same is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight or measure thereof, or to conceal its inferior quality :

(2) Where the drug or food is a proprietary medicine, or is the subject of a patent in force, and is supplied in the state required by the specification of the patent :

(3) Where the food or drug is compounded as in the Act mentioned :

(4) Where the food or drug is unavoidably mixed with some extraneous [1] matter in the process of collection or preparation.

Compound articles of food and compounded drugs (Sec. 7).

No person may sell any compound article of food or compounded drug which is not composed of ingredients in accordance with the demand of the purchaser, under a penalty not exceeding 20*l.*

Protection from offences by giving of label (Sec. 8).

No person, however, will be guilty of any offence under any of the foregoing provisions in respect of the sale of an article of food or a drug mixed with any matter or ingredient not injurious to health, and not intended fraudulently to increase its bulk, weight or measure, or conceal its inferior quality, if at the time of delivery such article or drug he supplies to the person receiving the same a notice by a label distinctly and legibly written or printed on or with the article or drug to the effect that the same is mixed.

Prohibition of abstraction of any part of an article of food before sale, and selling the same without notice (Sec. 9).

No person may, with the intent that the same may be sold in its altered state without notice, abstract from an article of food any part of it, so as to injuriously affect its quality, substance or nature ; and no person shall sell any article so altered without making disclosure of the alteration, under a penalty in each case not exceeding 20*l.*

Provision for dealing with the sample when purchased (Sec. 14).

For the protection of the vendor the Act requires the person purchasing any article with the intention of submitting the same to analysis, (1) to notify to the seller or his agent selling the article, after the purchase has been completed, his intention to have the same analysed by the public analyst ; and (2) to offer to divide the article into three parts to be then and there separated, and each part to be marked and sealed or fastened up in such manner as its nature will permit ; and (3) if required to do so, to proceed accordingly, and deliver one of the parts to the seller or his agent. He must afterwards retain one of the parts for future comparison, and submit the third part, if he deems it right to have the article analysed, to the analyst.

Provision where the sample is not divided (Sec. 15).

If the seller or his agent does not accept the offer of the purchaser to divide the article purchased in his presence, the analyst receiving the article for analysis must divide the same into two parts, and seal or fasten up one of them, or cause it to be delivered, either upon receipt

nature, or in substance, or in quality, was not defective in all three respects. These amendments were rendered necessary by certain decisions in the Scotch courts.

[1] Section 6 of the Act of 1879 has provided that in determining whether an offence has been committed under these provisions by selling to the prejudice of the purchaser spirits not adulterated otherwise than by the admixture of water, it shall be a good defence to prove that such admixture has not reduced the spirit more than twenty-five degrees under proof for brandy, whisky, or rum, or thirty-five degrees under proof for gin.

of the sample, or when he supplies his certificate, to the purchaser, who must retain the same for production in case proceedings are afterwards taken in the matter.

How articles are to be sent to the analyst by post (Sec. 16; Post Office Act, 1891, Sec. 11).

If the analyst does not reside within two miles of the residence of the person requiring the article to be analysed, such articles may be forwarded to the analyst through the post office as a registered parcel, subject to any regulations which the Postmaster-General may make in reference to the carrying and delivering thereof; and the charge for the postage will be deemed to be one of the charges of the Act, or of the prosecution, as the case may be.

Regulations of Postmaster-General.

The regulations made by the Postmaster-General prohibit liquids, eggs, fruit, fish, meat, butter, &c., being sent by any post but the Parcel Post, and require them when sent by the Parcel Post to be packed with special care. Liquids, or dense liquids such as jellies, pickles, paint, varnish, &c., must be put in bottles or cases securely stoppered. Any parcel containing eggs, or fragile or perishable contents, must be conspicuously marked 'Eggs' or 'Fragile,' 'With Care' or 'Perishable.' The packing of a parcel must be such as to protect the parcel itself from damage, and other postal packets from being damaged in any way by it. Any parcel not so packed will, if tendered for transmission, be refused, or if discovered in transit will be liable to be detained.

Proceedings against offenders (Sec. 20).

When the analyst, having analysed any article, has given his certificate of the result, from which it may appear that an offence against some of the provisions of the Sale of Food and Drugs Act has been committed, the person causing the analysis to be made may take proceedings for the recovery in a summary manner of the penalty imposed by the Act for such offence before the justices in petty sessions assembled, having jurisdiction in the place where the article or drug sold was actually delivered to the purchaser.

Summons to be served within reasonable time,

The summons to appear before the magistrates must, however, be served upon the person charged with the offence within a reasonable time, and, in the case of a perishable article, not exceeding twenty-eight days from the time of the purchase from such person for test purposes of the food or drug, for the sale of which, in contravention of the terms of Act, the seller is rendered liable to prosecution; and particulars of the offence or offences under the Act of which the seller is accused and also the name of the prosecutor must be stated on the summons, and the summons must not be made returnable in a less time than seven days from the day it is served upon the person summoned.

And particulars of offence, and name of prosecutor to be stated. Summons when to be made returnable (Sale of Food and Drugs Act Amendment Act, 1879, Sec. 10).

Certificate of analyst *primâ facie* evidence, but analyst to be called if required. Defendant and his wife may be examined (Sale of Food and Drugs Act, 1875, Sec. 21).

Section 21 of the Act of 1875 provides that at the hearing of the information the production of the certificate of the analyst shall be sufficient evidence of the facts therein stated, unless the defendant shall require that the analyst shall be called as a witness, and the parts of the articles retained by the person who purchased the article shall be produced; and the defendant may, if he think fit, tender himself and his wife to be examined on his behalf, and he or she, if he so desire, must be examined accordingly.

Appeal to quarter sessions (Sec. 23).

Any person convicted of any offence punishable by the Sale of Food and Drugs Acts may appeal to the next general or quarter sessions.

The justices before whom any complaint is made, or the court before whom any appeal is heard under these Acts, may, upon the

Power to court to cause articles of food or drugs to be analysed by Inland Revenue analyst (Sec. 22).

request of either party in their discretion, cause any article of food or drug to be sent to the Commissioners of Inland Revenue, who must thereupon direct the chemical officers of their department at Somerset House to make the analysis, and give to the justices a certificate of the result of the analysis, and the expenses of such analysis will be paid by the complainant or the defendant, as the justices may by order direct.

Regulations of Commissioners of Inland Revenue as regards transmission of articles for analysis.

The following regulations have been made by the Commissioners of Inland Revenue with respect to the transmission of articles for analysis under the above enactment :—

1. The sample retained by the purchaser, as stated in Sections 14 and 15 of the Act, should be carefully sealed up and secured either in paper or in a box, as the case may be.

2. The seal should bear a motto or device not in common use to enable its identity to be sworn to.

3. If sent through the post the instructions [1] issued by the Postmaster-General for the transmission of samples should be carefully carried out, and the parcel should be addressed to 'The Commissioners of Inland Revenue, Inland Revenue Office, Somerset House, London, W.C. *The Principal of the Laboratory*;' and, in addition to the nature of the contents being stated on the front of the packet, as enjoined by the Postmaster-General, the name of the place whence sent should be stated. If despatched by railway or other conveyance, the address above given, with the name of the place from which forwarded, will be sufficient.

4. At the time the parcel is despatched by post or otherwise a letter should be sent by post to the Principal of the Laboratory, apprising him of the transmission of the sample for analysis, and stating the nature of the alleged adulteration and such other particulars as may be considered necessary to facilitate the examination of the sample.

The Local Government Board have also addressed the following circular to sanitary authorities with reference to the transmission of these samples :—

Circular of the 26th of February, 1894.

Local Government Board, Whitehall, S.W.
February 26, 1894.

Sir,—I am directed by the Local Government Board to state that they have received from the Commissioners of Inland Revenue a communication with reference to the portions of samples forwarded to the Chemical Officers of their Department under the 22nd Section of the Sale of Food and Drugs Act, 1875, from which it appears that in some instances the quantities have been so small as to cause difficulties in the operations of analysis; that in others the packing has been defective; and that in certain instances, in the case of perishable articles, there has been what has seemed an unnecessarily long interval between the original purchase and the receipt of the sample at Somerset House.

The insufficiency referred to is doubtless generally due to the smallness of the sample purchased under Section 13 of the Act, but also, occasionally, to the fact that the parts into which, under Section 14, the sample is divided are not made equal.

The Chemical Officers of the Inland Revenue suggest that the following rules should be observed in this matter :—

1. The quantities of the samples purchased under Section 13

[1] As to these, see p. 139.

should not be less, in the case of milk, than 1 pint; butter, ¾ of a lb.; lard, ¾ of a lb.; coffee, ¾ of a lb.; spirits, ¾ of a pint.

2. The division under Section 14 should be made as nearly equally as possible, so that the portion reserved may be not less than one-third of the whole.
3. The reserved portion of such samples as butter and lard, should, as soon after purchase as possible, be placed, without paper (since paper acts as an absorbent), in a dry, wide-mouthed stoppered bottle or in an earthenware jar, securely corked so as to exclude the air.
4. The bottle used for the reserved portion of milk should be of such capacity that the milk may nearly fill it. (The use of bottles much too large for the quantity is apt to result in such a churning, if the samples are sent by railway, as to cause the separation of the fat).
5. The corks should be new and sound.

The Board request that the Officers by whom samples are obtained for analysis may be instructed to have regard to these rules.

I am also to suggest that the Officers referred to should be impressed with the importance of securing the utmost promptitude, both as regards the transmission of samples to the Public Analysts immediately after purchase, and as regards the subsequent stages of the case where legal proceedings are taken.

I am, Sir,
Your obedient Servant,
HUGH OWEN, Secretary.

The Clerk to the Sanitary Authority.

In what cases burden of proof to be on the defendant (Sec. 24).

In any prosecution under the Sale of Food and Drugs Act where the fact of an article having been sold in a mixed state has been proved, if the defendant desires to rely upon any exception or provision contained in those Acts, it will be incumbent upon him to prove the same.

Defendant to be discharged if he proves that he bought the article with a written warranty, &c. (Sec. 25).

If the defendant in any prosecution under these Acts proves, to the satisfaction of the court, that he had purchased the article in question as the same in nature, substance, and quality as that demanded of him by the prosecutor, and with a written warranty to that effect, that he had no reason to believe at the time when he sold it that the article was otherwise, and that he sold it in the same state as when he purchased it, he must be discharged from the prosecution, but will be liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence.

Consequence of forging warranty, &c. (Sec. 27).

The forgery, or issue knowingly of a forged warranty, is a misdemeanour punishable on conviction with imprisonment with hard labour for a term not exceeding two years; and the wilful application to one article of a warranty given for another article, the giving of a false warranty, and the wilful giving of a label falsely describing the articles sold, are offences in respect of which the offender is liable to a penalty not exceeding 20*l*.

(*b*) The Margarine Act, 1887

Object of Act. Definition of 'margarine' (Sec. 3).

The sole object of this Act is to prevent the fraudulent sale of margarine, which is defined by Section 3 of the Act as meaning all substances, whether compounds or otherwise, prepared in imitation of butter, and whether mixed with butter or not. No such substance may be lawfully sold, except under the name of margarine and under the conditions set forth in the Act.

Regulations to be observed by persons dealing in margarine (Sec. 6).

Every person dealing in margarine, whether wholesale or retail, whether a manufacturer, importer, or as a consignor or consignee, or as a commission agent or otherwise, must conform to the following regulations.

Every package, whether open or closed, and containing margarine, must be branded or durably marked 'margarine' on the top, bottom, and sides, in printed capital letters not less than three-quarters of an inch square; and if such margarine be exposed for sale by retail there must be attached to each parcel thereof so exposed, and in such manner as to be clearly visible to the purchaser, a label marked, in printed capital letters not less than one and a half inches square, 'margarine;' and every person selling margarine by retail save in a package duly branded or marked in accordance with the above requirements, must in every case deliver it to the purchaser in or with a paper wrapper on which is printed 'margarine' in capital letters not less than a quarter of an inch square.

Presumption against vendor (Sec. 7).

Every person dealing with, selling, or exposing for sale, or having in his possession for the purpose of sale, any quantity of margarine contrary to the provisions of the Act, will be liable to conviction for an offence against the Act, unless he shows, to the satisfaction of the court before whom he is charged, that he purchased the article in question as butter, and with a written warranty of invoice to that effect; that he had no reason to believe, at the time when he sold it, that the article was other than butter; and that he sold it in the same state as when he purchased it. If he can show this to the satisfaction of the court he will be discharged from the prosecution, but will be liable to pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence.

Penalties (Sec. 4).

Penalties for offences under the Act may not exceed 20*l.* for the first offence, 50*l.* for the second, and 100*l.* for the third or any subsequent offence.

In what cases employers are exempt from penalties (Sec. 5).

Where an employer is charged with an offence against the Act he will be entitled, upon information duly laid by him, to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, he proves to the satisfaction of the court that he had used due diligence to enforce the execution of the Act, and that the other person had committed the offence in question without his knowledge, consent, or connivance, such other person must be summarily convicted of the offence, and the employer will be exempt from any penalty.

Power to officers to take samples (Sec. 10).

Any officer[1] authorised to take samples under the Sale of Food and Drugs Act, 1875, may, without going through the form[2] of pur-

[1] As to these officers, see p. 135.

[2] No form of purchase is provided for by the Act. After the purchase has

chase provided by that Act, but otherwise acting in all respects in accordance with the provisions [1] of that Act as to dealing with samples, take, for the purposes of analysis, samples of any butter, or substances purporting to be butter, which are exposed for sale and are not marked 'margarine,' as provided by the Act; and any such substance not being so marked is to be presumed to be exposed for sale as butter.

Power to take samples from public conveyances (Sec. 8).

All margarine, whether imported or manufactured in this country, must, whenever forwarded by public conveyance, be duly consigned as margarine; and any officer of Her Majesty's Customs or Inland Revenue, or any medical officer of health, inspector of nuisances, or police constable, authorised, under Section 13 [2] of the Sale of Food and Drugs Act, 1875, to procure samples for analysis, may, if he has reason to believe that these provisions are infringed, examine and take samples from any package, and ascertain, if necessary, by submitting the same to be analysed, whether an offence under the Act has been committed.

Proceedings under the Act (Sec. 12).

All proceedings under the Act must, save as expressly varied by the Act, be the same as prescribed [3] by Sections 12 to 28 of the Sale of Food and Drugs Act 1875, and all officers [4] employed under that Act are empowered and required to carry out the provisions of the Margarine Act.

Appropriation of penalties (Sec. 11).

Any part of any penalty recovered under the Act may, if the court so direct, be paid to the person who proceeds for the same to reimburse him for the legal costs of obtaining the analysis and any other reasonable expenses to which the court may consider him entitled.

Registration of margarine manufactory (Sec. 9).

Every manufactory of margarine must be registered by the owner or occupier with the county council of the county, or the town council of the borough (if the borough had a population of more than 10,000 at the census of 1881) in which the same is situate in such manner as the Local Government Board may direct; and every owner or occupier carrying on such manufacture in a manufactory not duly registered will be guilty of an offence [5] under the Act.

XVIII. DAIRIES, COWSHEDS, AND MILK-SHOPS

Powers of sanitary authorities under the Contagious Diseases (Animals) Acts, 1878 and 1886, and the orders made thereunder by the Privy Council and the Local Government Board.

The importance from a sanitary point of view of the proper regulation of dairies, cowsheds, and milk-shops can hardly be exaggerated. Prior to the year 1886 sanitary authorities, as such, had no powers or duties in relation to this matter, the administration of the Contagious Diseases (Animals) Act of 1878 and of the orders made thereunder by the Privy Council being vested in boroughs in the town councils acting under the Municipal Corporations Act, 1882, and in other areas outside the metropolis, in the county authorities. Section 9 of the Contagious Diseases (Animals) Act, 1886, however, provided that the powers vested in the Privy Council of making general or special orders under Section 34 of the Contagious Diseases (Animals) Act, 1878, should thenceforth be exercisable by the Local Government Board, who might from that time alter or revoke any such order; and that for the purposes of these two sections and any order in force there-

been completed, the Act requires the purchaser to give notice of the intention to have the article analysed by the public analyst, and to divide the article into three parts, &c. See p. 138.

[1] See p. 138.

[2] See p. 135.

[3] As to these proceedings, see pp. 134 to 141.

[4] See p. 135.

[5] As to the penalties for offences under the Act, see pp. 136 and 137.

under, the expression 'local authority' should (unless the context otherwise required), outside the metropolis, have the same meaning as in the Public Health Act, 1875—in other words should mean the urban or rural sanitary authority as the case might be.

Section 34 of the Act of 1878 enabled the Privy Council to make orders for the following purposes:—

(1) For the registration with the local authority of all persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk.

(2) For the inspection of cattle in dairies and for prescribing and regulating the lighting, ventilation, cleansing, drainage, and water supply of dairies and cowsheds in the occupation of persons following the trade of cowkeepers or dairymen.

(3) For securing the cleanliness of milk-stores, milk-shops, and of milk-vessels used for containing milk for sale by such persons.

(4) For prescribing precautions to be taken for protecting milk against infection or contamination.

(5) For authorising a local authority to make regulations for the above purposes or any of them, subject to such conditions, if any, as the Privy Council might prescribe.

Dairies, cowsheds, and milk-shops. Order of 1885.

In pursuance of this section the Privy Council, on June 15, 1885, made an order known as 'the dairies, cowsheds, and milk-shops order of 1885,' which is still in force, as modified by the Act of 1886, and an order of the Local Government Board of November 1, 1886, to which reference will be made below. The material parts of the order of 1885 are the following:—

Registration of dairymen, &c. Article 6 of order.

Article 6 [1] of the order provides that it shall not be lawful for any person to carry on in the district of any local [2] authority the trade of cowkeeper, dairyman, or purveyor of milk, unless he is registered as such therein in accordance with that article. It also requires every local authority to keep a register of persons from time to time carrying on in their district the trade of cowkeepers, dairymen, or purveyors of milk, and from time to time to revise and correct the register. It provides that the local authority shall register every such person, but that the fact of such registration shall not be deemed to authorise such person to occupy as a dairy or cowshed any particular building, or in any way preclude any proceedings being taken against such person for non-compliance with or infringement of any of the provisions of the order, or any regulations made thereunder. And it requires the local authority from time to time to give public notice by advertisement in a newspaper circulated in their district, and if they think fit by placards, hand-bills, or otherwise, of registration being required and of the mode of registration. The remainder of this article deals with the exceptional cases [3] in which registration is not required. The first of these is that of a person who carries on the trade of cowkeeper or dairyman for the purpose only of making and selling butter or cheese or both, and who does not carry on the trade of a purveyor of milk. The second is that of a person who only sells milk of his own cows in small quantities to his workmen or neighbours for their accommodation.

[1] See the exceptions at the end of the Article.

[2] As mentioned above, 'local authority' now means urban or rural sanitary authority, as the case may be.

[3] The exceptions are for the purposes of registration only, and not for the other purposes of the order. Articles 7–15 of the order will therefore apply in these cases.

Construction and water supply of new dairies and cowsheds (Art. 8).

Article 7 deals with the construction and water supply of new dairies and cowsheds. It provides (1) that it shall not be lawful for any person following the trade of cowkeeper or dairyman to begin to occupy as a dairy or cowshed any building not so occupied at the commencement of the order (i.e. June 30, 1885), unless and until he first makes provision, to the reasonable satisfaction of the local authority, for the lighting and the ventilation, including air-space, and the cleansing, drainage, and water supply of the same, while occupied as a dairy or cowshed; and (2) that it shall not be lawful for any such person to begin so to occupy any such building without first giving one month's notice in writing to the local authority of his intention so to do.

Sanitary state of all dairies and cowsheds (Art. 8).

Article 8 contains provision with respect to the sanitary state of all dairies and cowsheds. It prohibits any person following the trade of cowkeeper or dairyman from occupying as a dairy or cowshed any building, whether so occupied at the commencement of the order or not, if and as long as the lighting and the ventilation, including air-space and the cleansing, drainage, and water supply thereof, are not such as are necessary or proper (*a*) for the health and good condition of the cattle therein; and (*b*) for the cleanliness of milk vessels used therein for containing milk for sale; and (*c*) for the protection of the milk therein against infection or contamination.

Protection of milk from infection (Art. 9).

The next four articles have for their object the protection of the milk from contamination or infection. Article 9 provides that it shall not be lawful for any person following the trade of cowkeeper or dairyman or purveyor of milk, or being the occupier of a milk-store or milk-shop, (*a*) to allow any person suffering from a dangerous infectious disorder, or having recently been in contact with a person so suffering, to milk cows or to handle vessels used for containing milk for sale, or in any way to take part or assist in the conduct of the trade or business of the cowkeeper or dairyman, purveyor of milk, or occupier of a milk-store or milk-shop, so far as regards the production, distribution, or storage of milk; or (*b*) if himself so suffering or having recently been in contact with a person so suffering, to milk cows, or handle vessels used for containing milk for sale, or in any way to take part in the conduct of his trade or business as far as regards the production, distribution, or storage of milk until in each case all danger therefrom of the communication of infection to the milk or of its contamination has ceased.

Water-closets, privies, &c., not to communicate with dairies or milk-shops (Art. 10).

Article 10 renders it unlawful for any person following the trade of cowkeeper, or dairyman, or purveyor of milk, and being the occupier of a milk-store or milk-shop, after the receipt of notice of not less than one month from the local authority calling attention to the provisions of this article, to permit any water-closet, earth closet, privy, cesspool, or urinal to be within, communicate directly with, or ventilate into any dairy or any room used as a milk-store or milk-shop.

Milk-shops not to be used as sleeping apartments, &c. (Art. 11).

Article 11 prohibits any person following the trade of cowkeeper, or dairyman, or purveyor of milk, or being the occupier of a milk-store or milk-shop, from using a milk-store or milk-shop in his occupation, or permitting the same to be used as a sleeping apartment, or for any purpose incompatible with the proper preservation of the cleanliness thereof, and of the milk vessels and milk therein, or in any manner likely to cause the contamination of the milk therein.

Article 12 provides that it shall not be lawful for any person

Swine not to be kept in cowsheds, &c. (Art. 12).

following the trade of cowkeeper, or dairyman, or purveyor of milk, to keep any swine in any cowshed or other building used by him for keeping cows, or in any milk-store or other place used by him for keeping milk for sale.

Milk of diseased cows (Art. 15).

Article 15 contains provisions with respect to the milk of diseased cows, to the effect that if at any time disease exists among the cattle in a dairy or cowshed or other building or place, the milk of a diseased cow therein (*a*) shall not be mixed with other milk; and (*b*) shall not be sold or used for human food; and (*c*) shall not be sold or used for food of swine, or other animals, unless and until it has been boiled.

Power of local authority to make regulations (Art. 13).

Article 13 enables a local authority from time to time to make regulations for the following purposes or any of them: (*a*) for the inspection of cattle in dairies; (*b*) for prescribing and regulating the lighting, ventilation, cleansing, draining, and water supply of dairies and cowsheds in the occupation of persons following the trade of cowkeepers or dairymen; (*c*) for securing the cleanliness of milk-stores, milk-shops, and of milk vessels used for containing milk for sale by such persons; and (*d*) for prescribing precautions to be taken by purveyors of milk and persons selling milk by retail against infection or contamination.

Regulations may be revoked in certain cases by Local Government Board (Art. 14).

By Article 14 the following provisions are made applicable to these regulations: (1) Every such regulation must be published by advertisement in a newspaper circulating in the district of the local authority. (2) The local authority must send to the Privy Council (now the Local Government Board) a copy of every regulation made by them not less than one month before the date named in the regulation for the same to come into force. (3) If at any time the Privy Council (now the Local Government Board) are satisfied on inquiry with respect to any regulation that the same is of too restrictive a character or otherwise objectionable, and direct the revocation thereof, the same will not come into operation or will thereupon cease to operate as the case may be.

Amending order of 1886.

The above order has, as already mentioned, been amended by a subsequent order of the Local Government Board, dated November 1, 1886. This order has substituted the words 'Local Government Board' for the words 'Privy Council' in Article 14 of the order of 1885, and has also imposed penalties on persons guilty of offences against

Penalties for offences against the order of 1885.

that order. The penalties thus imposed are five pounds for every such offence, and in the case of continuing offences, an additional penalty of 40*s.* for every day after written notice of the offence from the local authority. Power is, however, given to the justices or court before whom any complaint is made, or proceedings taken, to reduce the amounts of these penalties.

Application of the order of 1885 and regulations made thereunder to existing sanitary authorities (Contagious Diseases (Animals) Act, 1886, Sec. 9 (6)).

Section 9 (6) of the Contagious Diseases (Animals) Act, 1886, provided that the order of 1885 and any regulations thereunder or having effect in pursuance thereof made by any local authority under the Act of 1878, other [1] than the local authority of a county, should be deemed to have been made respectively by the Local Government Board and by the local [2] authority under that section; and that any

[1] I.e. in boroughs by the town council (see p. 143), in the City of London by the Corporation, and in the rest of the Metropolis by the Metropolitan Board of Works, now the London County Council.

[2] I.e. in boroughs by the urban sanitary authority, in the City of London by the Corporation, and in the rest of the Metropolis by the Metropolitan Board of Works now the London County Council.

such regulations made by the local authority of a county, within the meaning of the Act of 1878, should so far as they might extend to the district of any local [1] authority as defined in that section be deemed to have been made by such local authority. The regulations made by the county and borough authorities prior to the passing of the Act of 1886 are therefore, in some cases, still in force in sanitary districts.

Importance of making regulations in districts in which none are at present in force.

It would appear, however, from a circular issued by the Local Government Board on March 7, 1889, that there are districts in which no regulations under the above orders had at that date been made by the sanitary authority, or were in force at the time of the passing of the Act of 1886. In this circular the board impressed on the sanitary authorities the importance of exercising the powers conferred upon them in this matter by Article 13 of the order of 1885, and urged them to take steps to frame regulations for their districts. Having regard to the numerous cases in which epidemics have been traced to one of the milk supplies of a district, it is very desirable that proper regulations of the character contemplated by the order of 1885 should be made for every sanitary district. Model regulations for this purpose have been issued by Messrs. Knight & Co., 90 Fleet Street, E.C.

Expenses of sanitary authority under Contagious Diseases (Animals) Acts, 1878 and 1886 (Sec. 9 (3)).

Expenses incurred by sanitary authorities in pursuance of the Contagious Diseases (Animals) Acts, 1878 and 1886, are to be defrayed as if they were incurred in the execution of the Public Health Act, 1875, and in the case of a rural sanitary authority are to be deemed to be general expenses.

Powers of entry (Sec. 9 (4)).

For the purpose of enforcing orders under Section 34 of the Act of 1878, and any regulations made thereunder, sanitary authorities and their officers will have the same right to be admitted to any premises as they have under Section 102 [2] of the Public Health Act, 1875, for the purpose of examining into the existence of nuisances, and if such admission is refused the like proceedings may be taken with the like incidents [3] and consequences, as in the case of a refusal to admit to premises for any of the purposes of that section. But no entry may be made under these powers without the consent of the local authority [4] under the Contagious Diseases (Animals) Act, 1878, into any cowshed or other place in which an animal infected with any disease is kept and which is situate in a place declared to be infected with such disease.

Desirability of intercommunication between officers of sanitary authorities and county councils, 210.

In a circular issued by the Local Government Board on October 20, 1886, explaining the provisions of the Contagious Diseases (Animals) Act, 1886, it is suggested that it is desirable for the due execution of that Act and the Act of 1878, that the officers of sanitary authorities should give notice to the county authorities (now the county councils) of any disease of animals found by them in any dairy or cowshed. Such an arrangement would doubtless be productive of beneficial results, and the more so if it were also understood that similar information should be furnished to sanitary authorities by the officers of the county councils.

XIX. BATHS AND WASHHOUSES

Baths and washhouses Acts.

The Baths and Washhouses Acts are four in number, and are distinguished in their titles by the four years in which they were passed, viz.—1846, 1847, 1878, and 1882.

[1] I.e. the urban or rural sanitary authority, as the case may be.
[2] As to this right, see p. 65. [3] As to these, see p. 66.
[4] Now the county council. See Section 3 (xiii) of the Local Government Act, 1888.

The preamble to the first of these Acts recites that it is desirable for the health, comfort, and welfare of the inhabitants of towns and populous districts to encourage the establishment therein of public baths and washhouses, and open bathing places. Considering how early in the history of sanitary legislation this truth was recognised, the number of these establishments which have been provided at the cost of the rates is not as large as it might have been expected to be.

Power to close swimming baths during winter months and appropriate them for other purposes (Baths and Washhouses Act, 1878, Sec. 5).

One reason for this is no doubt to be found in the fact that although public baths are much frequented during the summer months, at which time they usually pay their way, there is no great demand for them during the winter, and they are then for the most part carried on more or less at a loss. To meet this difficulty Section 5 of the Baths and Washhouses Act, 1878, has enabled local authorities possessing public baths to close for such period, not exceeding five months in any one year, as they shall think fit, from the month of November to the end of the month of March, any covered or open swimming bath, and to either keep the same closed or to establish therein a gymnasium or such other means of healthful recreation as they think fit, or to allow during such period any such swimming bath to be used as an empty building for such purposes of healthful recreation or exercise as they think fit, and to allow at any time any portion of the public baths not required by them to be used for holding vestry meetings or other parochial purpose. These powers are subject to a proviso, the reasonableness of which is not altogether apparent, that no such swimming bath when closed may be used for music or dancing.

How Baths and Washhouses Acts were formerly adopted (Baths and Washhouses Act, 1846, Secs. 2, 3, 5, and 6).

When the Baths and Washhouses Act, 1846, was first passed power was given to town councils in boroughs to adopt it. The only other areas for which it could then be adopted were parishes, there being at that time no such areas as sanitary districts. In parishes it might be adopted by a resolution of the vestry approved by the Secretary of State. But the resolution was required to be carried by at least two-thirds of the number of votes given. Where the Act was adopted by the vestry not less than three or more than seven special commissioners had to be appointed by the vestry for carrying the Act into execution.

Transfer of powers to urban sanitary authorities. Power of these authorities to adopt the Acts (Public Health Act, 1875, Sec. 10).

The Public Health Act, 1875, has, however, now provided that where the Baths and Washhouses Acts are in force within the district of an urban sanitary authority, that authority shall have all powers, rights, duties, capacities, liabilities, and obligations in relation to those Acts exerciseable by or attaching to the council or commissioners acting in the execution of those Acts; and that where those Acts are not in force within the district of an urban sanitary authority, such authority may adopt the Acts. The Acts may therefore now be adopted in urban sanitary districts without any resolution of the vestry or approval of the Secretary of State.

Local Government Board Act, 1871 (Sec. 2).

In metropolitan parishes they may still be adopted by resolution of the vestry, the approval of the Local Government Board being now substituted for that of the Secretary of State, and where this is done, commissioners must still be appointed to carry them into execution. They are rarely, if ever, adopted in rural [1] parishes; but they have been adopted and are in force in a considerable number of

[1] In rural parishes after the appointed day (as to which see p. 7) they can only be adopted by the parish meeting; and the parish council, if there is one, will be the authority to carry them into effect.

parishes[1] in the Metropolis. In the present place it will be sufficient to consider their provisions as applicable to urban sanitary authorities.

Where the Acts have been adopted, the expenses of the urban sanitary authority in their execution, so far as the baths and washhouses are not self-supporting, will be borne in the same manner as their expenses, under the Public Health Act, 1875; and the authority will have the same powers of borrowing[2] in respect of these expenses as in the case of expenses under that Act. The provisions of that Act with respect to the acquisition of land will also apply. In addition to the powers thus given, any town council with the approval of the Treasury may appropriate for the purposes of these Acts, in the borough, any lands vested in them, and may contract for the purchasing or renting of any lands necessary for the purposes of these Acts, in the borough or in the immediate neighbourhood thereof.

Expenses of urban sanitary authority in the execution of the Acts (Public Health Act, 1875, Secs. 175, 176, 207, 233).

Power to town council to appropriate lands for baths and washhouses (Baths and Washhouses Act, 1847, Sec. 24; Baths and Washhouses Act, 1882, Sec. 3).

Section 25 of the Baths and Washhouses Act, 1846, enables the urban sanitary authority on any lands thus acquired, appropriated or rented, from time to time, to erect any buildings suitable for public baths or washhouses, and as to such washhouses either with or without open drying grounds, and to make any open bathing places, and convert any buildings into public baths and washhouses, and to alter, enlarge, repair, and improve the same, and fit up, furnish, and supply them with all requisite furniture, fittings, and conveniences.

Power to erect, &c., baths and washhouses (Baths and Washhouses Act, Sec. 25).

By Sections 1 and 3 of the Baths and Washhouses Act, 1878, these and the other provisions of the Acts of 1846 and 1847 are extended to covered swimming baths—i.e. swimming baths protected with a roof or other covering from the weather.

Covered swimming baths (Baths and Washhouses Act, 1878, Secs. 1 and 3).

In connection with these powers it should be mentioned that by the combined operation of Section 36 of the Baths and Washhouses Act, 1846, and Section 5 of the Baths and Washhouses Act, 1847, the number of baths and washing-tubs or troughs for the labouring classes in the building must be not less than twice the number of the baths, washing-tubs, or troughs, of any higher class, if one, and of all the higher classes, if more than one in the building.

Proportion of bath and washing accommodation for the labouring classes (Baths and Washhouses Act, 1846, Sec. 36; 1847, Sec. 5).

Instead of erecting baths and washhouses themselves, an urban sanitary authority may, if they think fit, contract for the purchase or lease of any baths and washhouses built or provided in their district, or in the immediate neighbourhood thereof, and appropriate the same to the purposes of the Baths and Washhouses Acts, with such additions or alterations as they deem necessary, and the trustees of any public baths and washhouses so built or provided by private subscription or otherwise, may with the consent of the urban sanitary authority, and the approval of the vestry, and the consent of a majority of the committee or other persons by whom they were appointed trustees, sell or lease, or make over the management of such baths and washhouses to the urban sanitary authority; and in any such case the baths and washhouses so purchased, leased or made over, will be deemed to be within the provisions of the Baths and Washhouses Acts, as fully as if they had been built and provided by the urban sanitary authority themselves.

Power of urban sanitary authority to purchase existing baths (Baths and Washhouses Act, 1846, Sec. 27; Baths and Washhouses Act, 1882, Sec. 2).

Any commissioners or trustees of waterworks, water companies, canal companies, gas companies, and other corporations, bodies, and

[1] With respect to the provisions of these Acts as applied to the Metropolis, see pp. 337 and 338.

[2] See p. 27.

Terms on which water and gas companies, &c., may supply water and gas (Baths and Washhouses Act, 1846, Sec. 28).

persons having the management of any waterworks, canals, reservoirs, wells, springs, and streams of water, or gasworks, may in their discretion furnish supplies of water or gas for public baths and washhouses and open bathing places, either with or without charge, or on such other favourable terms as they may think fit.

Urban sanitary authority may sell or exchange lands with consent of Treasury (Sec. 31).

An urban sanitary authority, with the approval of the Treasury, may from time to time sell and dispose of any lands vested in them for the purposes of these Acts, and apply the proceeds in or towards the purchase of other lands better adapted for such purposes, and may, with the like approval, exchange any lands so vested, and either with or without paying or receiving any money for equality of exchange, for any lands better adapted for such purposes.

When baths or washhouses are too expensive they may be sold with consent of the Treasury (Sec. 32).

Whenever any public baths or washhouses or open bathing places which have for seven years or upwards been established under these Acts are determined by the urban sanitary authority to be unnecessary or too expensive to be kept up, the urban sanitary authority, with the approval of the Treasury, may sell the same for the best price that can be reasonably obtained for them, and the net proceeds of such sale must be applied in aid of the rates.

Charges for baths and washhouses (Baths and Washhouses Act, 1847, Sec. 7, and Schedule; Baths and Washhouses Act, 1878, Secs. 4, 14, and Schedule).

The charges for baths and washhouses provided under these Acts are in some cases limited. The following are the maximum charges:

1. *Baths for the Labouring Classes.*—Every bath to be supplied with clean water for every person bathing alone, or for several children bathing together, and in either case with one clean towel for every bather. For one person above eight years old, cold bath or cold shower bath, one penny; warm bath, or warm shower bath, or vapour bath, twopence. For several children, not above eight years old, nor exceeding five, bathing together, cold bath or cold shower bath, twopence; warm bath, or warm shower bath, or vapour bath, fourpence.

2. *Baths of any Higher Class.*—Charges not exceeding in any case three times the charges mentioned for the several kinds of bath for the labouring classes.

3. *Washhouses for the Labouring Class.*—Every washhouse to be supplied with conveniences for washing and drying clothes and other articles. For the use by one person of one washing tub or trough, and of a copper or boiler (if any), or where one of the washing tubs or troughs is used as a copper or boiler, for the use of one pair of washing tubs or troughs, and for the use of the conveniences for drying, for one hour only in any one day, one penny; for two hours together in any one day, threepence. Any time over the hour, or two hours, if not exceeding five minutes not to be reckoned. For two hours not together, or for more than two hours in any one day, such charges as the urban sanitary authority think fit. For the use of the washing conveniences alone, or of the drying conveniences alone, such charges as the urban sanitary authority think fit, but not exceeding in either case the charges for the same time of both the washing and drying conveniences.

4. *Washhouses of any Higher Class.*—Such charges as the urban sanitary authority think fit.

5. *Open Bathing Places.*—Where several persons bathe in the same water, for one person, one penny.

6. *Covered Swimming Baths.*—For each person, 1st class, eightpence; 2nd class, fourpence; 3rd class, twopence.

Incorporation of provisions of Companies Clauses Consolidation Act as to bye-laws (Baths and Washhouses Act, 1846, Sec. 23).

The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the making of bye-laws are incorporated with the Baths and Washhouses Acts, with certain modifications. These provisions (*inter alia*) enable a company to make, alter, and repeal bye-laws for regulating the conduct of their officers and servants, and for providing for the due management of the affairs of the company in all respects whatsoever, and require a copy of such bye-laws to be given to every officer and servant of the company affected thereby.

Purposes of bye-laws, penalties, and confirmation of bye-laws (Baths and Washhouses Act, 1846, Sec. 34 and Schedule A).

Section 34 of the Baths and Washhouses Act, 1846, taken in conjunction with Schedule A to that Act, in effect provides that the bye-laws which the urban sanitary authority may from time to time make, alter, repeal and enforce, shall include such bye-laws for the management, use, and regulation of the baths and washhouses and open bathing places, and of the persons resorting thereto, and for determining from time to time the charges for the use of the same, as the urban sanitary authority think fit; and that they may appoint any penalty not exceeding 5*l.* for every breach, whether by their officers and servants or by other persons, of any bye-law made by them; that no such bye-law will be of any legal force until it has received the approval of the Local Government Board, and that these bye-laws must make sufficient provision for the following purposes, viz.:

For securing that the baths and washhouses and open bathing places shall be under the due management and control of the officers, servants, and others appointed or employed in that behalf by the urban sanitary authority.

For securing adequate privacy to persons using the baths and washhouses and open bathing places, and security against accidents to persons using the open bathing places.

For securing that men and boys above eight years old shall bathe separately from women and girls and children under eight years old.

For preventing damage, disturbance, interruption, and indecent and offensive language and behaviour, and nuisances.

For determining the duties of the officers, servants, and others appointed by the urban sanitary authority.

Appeal to Quarter Sessions (Sec. 30).

Any person who feels aggrieved by any bye-law made under the above provisions may appeal to Quarter Sessions.

Model bye-laws of the Local Government Board. Omissions from these bye-laws.

The Local Government Board have issued a series of model bye-laws for the guidance of local authorities making bye-laws with respect to the above matters. The series does not, however, include any bye-laws for securing adequate privacy to persons using the washhouses and open bathing places, and security against accidents to persons using the open bathing places. In the preliminary memorandum to the model bye-laws, the Board explain their reasons for these omissions. In the case of public washhouses, they think that such privacy as may be reasonably necessary may most effectually be secured by the structural arrangement of the premises. In the case of an open bathing place, they point out that it is of course desirable that either by its situation or by the erection of a suitable boarding, fence, or partition, the bathers should, as far as possible, be screened from the view of persons occupying premises in the vicinity, or passing along any neighbouring thoroughfare. They also suggest the possibility of providing separate boxes for the bathers. But they admit that the small sum fixed by the Act as the price of admission to an open bathing place (one penny) will hardly justify expenditure

on elaborate structural conveniences; and they assume that in most cases bye-laws such as those which they have suggested for securing privacy to persons using the public baths could not easily be rendered applicable to an open bathing place. As regards security against accident, they say that this must very often depend upon the judicious choice of a situation for the bathing place; that the provision of suitable means of rescue from danger is an obvious precaution which should not be overlooked; and that among the bye-laws which they have framed for determining the duties of the superintendent of an open bathing place is one which requires him to keep ready and fit for use any life-saving apparatus which may be committed to his care. But they are of opinion that the rules which may in each case be imposed for the protection of bathers will derive their chief value from a careful consideration of the special requirements of the locality, and that the subject is therefore one which lies beyond the range of model bye-laws intended for general use.

Copies or abstracts of bye-laws to be hung up in every bath-room, &c. (Sec. 35).

A printed copy or sufficient abstract of the bye-laws relating to the use of the baths, and open bathing places, must be put up in every bath-room and open bathing place; and a printed copy or sufficient abstract of the bye-laws relating to the use of the washhouses must be put up in some convenient place near every wash-tub or trough, or every pair of wash-tubs or troughs, in every washhouse.

Bye-laws for regulating swimming baths when used as gymnasium, &c. (Baths and Washhouses Act, 1878, Sec. 6).

Reference has already [1] been made to the power of the urban sanitary authority to close their swimming baths during the winter months, and to allow them during that period to be used for other purposes. Where this is done, Section 6 of the Baths and Washhouses Act, 1878, enables the urban sanitary authorities to make bye-laws for the regulation, management, and use of the swimming baths, when used for any of these purposes; and makes applicable for this purpose the provisions of the Act of 1846, relating to bye-laws.

XX. PARKS, PLEASURE GROUNDS, OPEN SPACES, AND COMMONS

Importance of acquisition and preservation of open spaces.

The importance, from a sanitary point of view, of the acquisition and preservation of open spaces within and in the neighbourhood of towns, was not until recently fully recognised by Parliament or the public; but at the present time there is little fault to be found in the state either of the law or of public opinion on this subject. The acquisition of an open space, or the preservation of a common, is usually a popular proceeding, and one in which the sanitary authority is not often hampered, either by the opposition of the ratepayers, or by the insufficiency of its statutory powers.

(*a*) Parks and Pleasure Grounds

Powers of urban sanitary authority to provide and regulate pleasure grounds, &c. (Public Health Act, 1875, Sec. 164).

The provisions of the Public Health Act, 1875, relating to pleasure grounds are very brief. They are contained in the 164th Section of the Act, which enables any urban sanitary authority to purchase or take on lease, lay out, plant, improve, and maintain lands for the purpose of being used as public walks or pleasure grounds, and to support or contribute to the support of public walks or pleasure grounds provided by any person whomsoever. The same section empowers any

[1] See p. 148.

urban sanitary authority to make bye-laws [1] for the regulation of any such public walk or pleasure ground, and by such bye-laws to provide for the removal from such public walk or pleasure ground of any person infringing any such bye-law, by any officer of the urban sanitary authority, or by any constable.[2]

The majority of the public parks and pleasure grounds belonging to provincial towns have been provided and regulated under these enactments. A certain number of them are, however, subject to the provisions of local Acts. One of the commonest purposes for which special legislation has been obtained in connection with these places is to enable them to be closed at certain times to the public, and charges to be made for admission thereto on the occasion of horticultural shows, and other similar entertainments. This was not authorised by the Public Health Act, the public having a right of admission, free of charge, to pleasure grounds provided under that Act.

Public to be admitted free of charge.

In consequence of the advantages which had been found to result from the insertion in local Acts of provisions of the above character, Section 442 of the Public Health Acts Amendment Act, 1890, has enabled the urban sanitary authorities of any sanitary district in which Part III. of that Act has been adopted, on such days as they think fit (not exceeding twelve days in any one year, nor four consecutive days on any one occasion), to close to the public any park or pleasure ground provided by them, or any part thereof, and to grant the use of the same either gratuitously, or for payment to any public charity or institution, or for any agricultural, horticultural, or other show, or any other public purpose, and to use the same for any such show or purpose ; and the admission to such park or pleasure ground, or such part thereof, on the days when the same is so closed to the public, may be, either with or without payment, as directed by the urban sanitary authority, or with the consent of the authority, by the society or persons to whom the use of the park or pleasure ground, or such part thereof may be granted. But no such park or pleasure ground may be closed on any Sunday or public holiday.

In what cases charges may be made (Public Health Acts Amendment Act, 1890, Sec. 44).

The same section also enables an urban sanitary authority, either themselves, to provide and let for hire, or to license any person to let for hire, any pleasure-boats on any lake or piece of water, in any such park or pleasure ground, and to make bye-laws for regulating the numbering and naming of such boats, the number of persons to be carried therein, the boat houses and mooring places for the same, and for fixing rates of hire, and the qualifications of boatmen, and for securing their good and orderly conduct while in charge of any boat.

Section 45 of the same Act has extended the powers of an urban sanitary authority under Section 164 of the Public Health Act, 1875, so as to enable them to contribute towards the costs of laying-out, planting, or improvement of any lands provided by any person which

Extension of powers of Section 164 of Public Health Act, 1875 (Sec. 45).

[1] These bye-laws are subject to the general provisions of the Public Health Act relating to bye-laws, as to which see note 2, p. 33. The Local Government Board have issued a model series, but as they do not involve any sanitary questions, it is unnecessary here to set out their contents.

[2] By Section 8 (1) (*d*) of the Local Government Act, 1894, parish councils are empowered to exercise with respect to any recreation ground, village green, open space or public walk for the time being under their control, or to the expense of which they have contributed, such powers as may be exercised by urban sanitary authorities under this section.

have been permanently set apart as public walks or pleasure grounds, and which, whether in the district of the urban sanitary authority or not, are so situated as to be conveniently used by the inhabitants of the district. It has also enabled urban sanitary authorities who have adopted this part of the Act to contribute towards the purchase by any person of lands so situate and to be so set apart.

In what cases gifts and bequests of money for the purposes of a public park are exempted from the Mortmain Acts (Public Parks, Schools, and Museums Act, 1871, Secs. 3-6).

A fair proportion of the public parks in urban districts have been given to the public by private benefactors. In order to give facilities for gifts of this description, the Public Parks, Schools and Museums Act, 1871, has exempted from the Mortmain Acts, and other statutes of mortmain, gifts and bequests of land or of money, to be laid out in the purchase of land for the purpose of a public park, which expression is defined by the Act as including any park, garden, or other land dedicated or to be dedicated to the recreation of the public. The Act, however, requires every will or codicil containing any such bequest, and every deed containing any such gift, and made otherwise than for full and valuable consideration, to be made at least twelve months before the death of the testator or grantor, and to be enrolled in the books of the Charity Commissioners within six calendar months after the time when it comes into operation. The Act does not authorise any gift by will or codicil of more than twenty acres of land for any one public park.

(*b*) Open Spaces other than Commons

The Open Spaces Act, 1887.

The Open Spaces Act, 1887, by extending certain provisions of the Metropolitan Open Spaces Acts, 1877 and 1881, to all urban sanitary districts, and to every rural sanitary district in respect of which the sanitary authority [1] may be invested by order of the Local Government with the powers of the Act, gave considerable facilities to sanitary authorities for the acquisition, maintenance and regulation of open spaces for the use of the public for exercise and recreation.

For the purposes of these Acts 'open space' means any land, whether inclosed or uninclosed, which is not built upon, and which is laid out as a garden or is used for purposes of recreation, or lies waste or unoccupied. The Acts as extended by the Open Spaces Act, 1887, to the provinces, enable the sanitary authorities to whom they apply to acquire these spaces either by purchase or gift; and give wide powers to trustees and other persons and corporations under disability or possessing limited interests to transfer them to sanitary authorities, in order that they may be held in trust and maintained, and if necessary laid out and improved with a view to their enjoyment by the public in an open condition, free from buildings and under proper control and regulation. They also enable the sanitary authorities when they have acquired under the Act any open space or any estate interest or control in or over it, to make bye-laws for its regulation, and for regulating the days and times of admission thereto. These bye-laws will be subject to the provisions [2] with respect to bye-laws contained in the Public Health Act, 1875.

These Acts also contain special provisions with respect to disused

[1] Power is given by the Act to the Local Government Board by order to invest any rural sanitary authority with the powers of the Act. The Act contains no special provisions as to the applications for these orders.

[2] As to these provisions, see note 2, p. 33.

burial grounds, to which it will be more convenient to refer hereafter under the head of 'Disused[1] Burial Grounds.'

The powers given by the above Acts to urban sanitary authorities have been considerably extended by the Open Spaces Act, 1890.

The Open Spaces Act, 1890.

(c) Commons

The powers of sanitary authorities under the general law in connection with the preservation of commons are contained in Section 8 of the Commons Act, 1876. The only sanitary authorities who have any powers under this section are the urban sanitary authorities of districts containing a population of more than 5,000 inhabitants, according to the last published census.

What sanitary authorities have powers under the Commons Act, 1876.

By this Act the Inclosure Commissioners (now the Board of Agriculture) are empowered to make provisional orders for the regulation or inclosure of commons, or parts of commons, on the application of persons representing at least one third in value of the interests in the common proposed to be affected by the provisional order. Section 8 of the Act requires notice of any such application to be served on the urban sanitary authority of any district containing the above population, if the common to be regulated or inclosed is either wholly or partly in the district or within six[2] miles thereof; and empowers such sanitary authority to appear before the Assistant Commissioner on the occasion of his holding the local inquiry with reference to the proposed provisional order, and also to appear before the Inclosure Commissioners (now the Board of Agriculture), and to make to him or them at any time during the proceedings in relation to the obtaining of the provisional order, such representations as they may think fit with respect to the expediency or inexpediency of the application, regard being had to the health, comfort and convenience of the inhabitants of the district of the authority, and to propose to him or them such provisions as appear to them to be proper.

Objects of the Commons Act, 1876.

Powers of certain urban sanitary authorities under the Act (Commons Act, 1876, Sec. 8).

The same section enables any urban sanitary authority entitled to receive notice of the application for the provisional order to enter into an undertaking with the sanction of the Board of Agriculture to contribute out of their funds for or towards the maintenance of recreation grounds, or of paths and roads, or the doing of any other matter or thing for the benefit of their district in relation to the common, or to pay compensation in respect of the rights of the commoners for the purpose of securing greater privileges for the benefit of their district. It further empowers the sanitary authority to acquire by gift and hold without license, or maintain on trust for the benefit of their district, any common in respect of which they would be entitled to receive notice of any application under the Act, and any rights in such a common.

The sanitary authority may also under the section, in the case of any such common, purchase and hold with a view to the extinction of the rights of common, any saleable rights in common or any tene-

[1] See pages 197 and 198..

[2] This distance is to be measured in a direct line from the town hall, or if there be no town hall from the cathedral or church, if there be only one church, or if there be more churches than one, then from the principal market place of the district to the nearest point of the common. Where part only of a common is situate within the six miles, such part is to be deemed for the purposes of the section to be a common separate and distinct from the part situated without and beyond the six miles.

ment of a commoner having annexed thereto rights of common; and with the consent of persons representing at least one third in value of such interests in the common as are proposed to be affected by the provisional order, make an application to the Board of Agriculture for the regulation of the common with a view to the benefit of their town and the improvement of the common.

Where a sanitary authority under these provisions makes an application in respect of the regulation of a common, or undertakes to make any contribution or to pay any compensation or to make any other payment out of its funds in respect of a common, it may, if the Board of Agriculture deem it advisable, having regard to the benefit of the neighbourhood as well as to private interests, be invested with such powers of management or other powers as may be expedient.

Expenses incurred by an urban sanitary authority in pursuance of this section may be defrayed out of any rate applicable to the payment of expenses incurred by such authority in the execution of the Public Health Act, 1875, and not otherwise provided for.

Provisional order obtained under the above provisions.

As an example of the sort of provisional order which may be obtained by an urban sanitary authority under the above enactments, reference may be made to the provisional order obtained by the Local Board of Ince-in-Makerfield confirmed by the Commons Regulation (Amberswood) Provisional Order Confirmation Act, 1889 (52 Vict. c. xliv), for the regulation of certain lands, forming part of Amberswood Common, in the parish of Wigan.

In certain cases local boards the local authority for the purposes of the Metropolitan Commons Acts.

The Metropolitan Commons Acts[1] prohibit the inclosure of any common within the Metropolitan Police District, and enable schemes to be made for the management and regulation of such commons. Where any such common is wholly or partly situate within the district of a Local Board, and no part of the common is within the Metropolis, the Local Board is the local authority for the purposes of these Acts.

XXI. GYMNASIUMS

Power of urban sanitary authorities to provide and maintain gymnasiums (Museums and Gymnasiums Act, 1891, Sec. 4).

Until the passing of the Museums and Gymnasiums Act, 1891, urban sanitary authorities had no power to provide or maintain gymnasiums at the cost of the rates, except in public baths closed[2] during the winter months. Where, however, they have duly adopted that Act either wholly or so far as it relates to gymnasiums, they may now provide and maintain these establishments with all the apparatus ordinarily used therewith, and may erect any buildings and do all things necessary for the provision and maintenance of the gymnasium.

Admission to gymnasium (Sec. 6).

Every gymnasium provided under the Act must be open to the public free of charge for not less than two hours a day during five days in every week; but, subject to this condition, the urban sanitary authority may regulate the admission of the public to it, either by classes or otherwise, as they may think fit, and may charge fees for such admission. They may also, for not more than two hours in each day, grant the exclusive use thereof to any person, or body of persons, for the purpose of gymnastic exercises for such payment, and on such terms and conditions as they think fit. And they may (for not more than twenty-four days in one year, nor more than six consecutive days) close the gymnasium for use as a gymnasium, and grant the use

[1] As to the provisions of these Acts, see p. 298.
[2] See p. 148.

of the same gratuitously, or for payment, to any person for the purpose of any lecture, exhibition, public meeting, entertainment, or other public purpose; and the admission on such days will be either with or without payment, as directed by the urban sanitary authority, or with the consent of the urban sanitary authority by the person to whom the use of the same is granted.

Regulations (Sec 7 (1)).

An urban sanitary authority may make regulations [1] for all or any of the following matters, viz.:—

(1) For fixing the days of the week or hours of the day, as the case may be, during which the gymnasium is to be open to the public free of charge.

(2) For regulating the use of the gymnasium either by classes or otherwise, and fixing the scale of fees to be paid for such use.

(3) For prescribing conditions on which the exclusive use of the gymnasium is granted in any case.

(4) For determining the duties of the instructor, officers, and servants of the urban sanitary authority in connection with a gymnasium.

(5) Generally for regulating and managing the gymnasium.

Bye-laws (Sec. 7 (2)).

An urban sanitary authority may also make bye-laws [2] for regulating the conduct of persons admitted to the museum or gymnasium, and may by any such bye-law provide for the removal from the gymnasium of any person infringing any such bye-law by any officer of the urban sanitary authority, or by any constable.

Closing of gymnasium for repairs (Sec. 8).

An urban sanitary authority may, at such time as they think fit, close a gymnasium provided by them for repairs, but they must give a fortnight's notice of their intention to close it by affixing a notice to that effect on the door of the gymnasium, or otherwise, as they think fit.

Appointment and employment of officers, servants, and instructors (Sec. 9).

They may appoint and pay such officers and servants as they think fit for the purpose of a gymnasium provided under this Act, and may employ and pay instructors in connection with the gymnasium.

Other provisions as to gymnasiums (Secs. 10–12).

The Act contains provisions somewhat similar to those [3] in the Baths and Washhouses Acts as to the manner in which expenses in connection with gymnasiums are to be defrayed, the application of fees received under the Act, and the acquisition of land and the borrowing of money for the purposes of a gymnasium. It also enables an urban sanitary authority, where it appears to them that a gymnasium which has been established under the Act for seven years or upwards as unnecessary or expensive, to sell the same with the consent of the Local Government Board.

XXII. INFECTIOUS DISEASES AND HOSPITALS

Different branches of the law relating to infectious disease.

We come next to the law relating to infectious diseases, so far as it is administered by urban and rural sanitary authorities and their officers. It may most conveniently be divided into two branches, the one comprising the law relating generally to infectious disease, which has been designed with the object of preventing the spread of the infectious diseases commonly prevalent in this country, and the other

[1] These regulations, unlike bye-laws, require no confirmation by the Local Government Board.

[2] The provisions of the Public Health Act, 1875, as to bye-laws contained in Sections 182–186 of that Act will apply to these bye-laws (see p. 33).

[3] See p. 149.

containing the law relating to cholera and extraordinary epidemics. The vaccination laws [1] not being administered by sanitary authorities will be explained later on in this work.

(*a*) The Law Relating Generally to Infectious Disease

Duties of individuals as regards prevention of spread of infectious disease.

In treating this subject it will be convenient, before discussing the very important powers and duties which have been entrusted to local authorities, in order to enable them to protect their districts from attacks of infectious disease, to consider what are the duties which have been imposed on individuals by the Legislature with the object of preventing them from communicating these diseases to one another. There are certain obvious precautions which it is in the power of individuals to take with this object, and the neglect of these precautions is very properly punishable. There are certain other precautions which can only be taken effectually by the local authorities; but these do not in any way relieve individuals from their duty to conform to the requirements of the law, which have been framed for the purpose of checking the spread of infectious disease by the careless or wilful transmission of infection.

Infectious Disease Prevention Act, 1890.

The law relating to this subject varies in different sanitary districts, according as the sanitary authorities have adopted or not all or any of the sections of the Infectious Disease (Prevention) Act, 1890. It is left entirely to the option of every urban and rural sanitary authority whether they will adopt, and whether, after adopting, they will rescind any of these sections. It appears from the Twentieth Annual Report of the Local Government Board that up to March 31, 1891 (i.e. within less than eight months from the passing of the Act), it had been adopted in part or wholly in 259 urban and ninety-five rural sanitary districts, with an aggregate population, according to the census of 1881, of 6,755,029. As the Act was made to apply to the county of London without adoption, it seems probable, from the rapidity with which it was being adopted shortly after its passing, that it is now in force in districts containing at least one half of the population of the country. It extends to the same diseases [2] as the Infectious Disease Notification Act, 1889; and it may be applied to any other infectious disease in the same manner as that Act may be applied to such disease.

Penalty for exposure of infected persons and things (Public Health Act, 1875, Sec. 126).

The sections of the Public Health Act, 1875, which impose penalties on individuals for neglecting to take proper precautions for preventing the spread of infectious disease, are Sections 126 to 129. The first of these sections imposes a penalty of 5*l.* on any person who, (1) while suffering from any dangerous infectious disorder, wilfully exposes himself without proper precautions against spreading such disorder in any street, public place, shop, inn, or public conveyance, or enters any public conveyance without previously notifying to the owner, conductor, or driver that he is so suffering; or (2), being in charge of any person so suffering, so exposes such sufferer; or (3) gives, lends, sells, transmits, or exposes, without previous disinfection, any bedding, clothing, rags, or other things which have been exposed to infection from such disorder. The same section also provides that any person who, while suffering from any such disorder, enters any public conveyance without notifying to the owner or driver that he is

[1] See pp. 246 to 274.

[2] As to these diseases see p. 178.

so suffering shall in addition be ordered by the court to pay such owner and driver the amount of any loss and expense they may incur in carrying into effect the provisions of the Act with respect to disinfection of the conveyance. It declares, however, that no proceedings may be taken under it against persons transmitting with proper precautions any bedding, clothing, rags, or other things for the purpose of having them disinfected.

Penalty for failing to provide for disinfection of public conveyance (Sec. 127).

Section 127 requires every owner or driver of a public conveyance to immediately provide for its disinfection after it has to his knowledge conveyed any person suffering from a dangerous infectious disorder; and if he fails to do so, he will be liable to a penalty of 5*l*. But no such owner or driver will be required to convey any person so suffering, until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying these provisions into effect.

Penalty for letting houses in which any infected persons have been lodging (Sec. 128).

Section 128 provides that any person who knowingly lets for hire any house, room, or part of a house in which any person has been suffering from any dangerous infectious disorder without having such house, room, or part of a house, and all articles therein liable to retain infection, disinfected to the satisfaction of a legally qualified medical practitioner, as testified by a certificate signed by him, shall be liable to a penalty not exceeding 20*l*. For the purposes of this enactment, the keeper of an inn will be deemed to let for hire part of a house to any person admitted as a guest to such inn.

Penalty on persons letting houses making false statements as to infectious disease (Sec. 129).

Under Section 129 any person letting for hire, or showing for the purposes of hire, any house or part of a house who on being questioned by any person negotiating for the hire of such house or part of a house as to the fact of there being, or within six weeks previously having been, therein any person suffering from a dangerous infectious disorder, knowingly makes a false answer to such question will be liable at the discretion of the court to a penalty of 20*l*., or to imprisonment, with or without hard labour, for a period not exceeding one month.

Penalty on persons ceasing to occupy houses without previous disinfection, or giving notice to owner, or making false answers (Infectious Disease Prevention Act, 1890, Sec. 7).

The above provisions have been supplemented in districts where the Infectious Disease Prevention Act, 1890, is in force by the following enactment of that Act. Section 7 provides that every person who shall cease to occupy any house, room, or part of a house in which any person has within six weeks previously been suffering from infectious disease without having the same and all articles therein disinfected to the satisfaction of a registered medical practitioner, as testified by a certificate signed by him, or without first giving to the owner notice of the previous existence of such disease; and every person ceasing to occupy any house, room, or part of a house, and who on being questioned by the owner, or by any person negotiating for the hire thereof, as to the fact of there having within six weeks previously been therein any person suffering from any infectious disease, knowingly makes a false answer to such question, shall be liable to a penalty not exceeding 10*l*.

Notice to be given of these provisions (Sec. 14).

In any district in which this section is in force, the sanitary authority must give notice of its provisions to the occupier of any house in which they are aware that there is a person suffering from any infectious disease.

The next section of the Public Health Act to which attention should be drawn imposes a duty, not only on individuals, but also on the

Duty of sanitary authority to cause premises to be cleansed and disinfected (Sec. 120).

sanitary authority, in connection with the disinfection[1] of infected houses. It provides that where any urban or rural sanitary authority, on the certificate of their medical officer of health, or of any other legally qualified medical practitioner, are of opinion that the cleansing or disinfecting of any house[2] or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, it shall be the duty of such authority to give notice in writing to the owner or occupier of the house, or of the part thereof in question, requiring him to cleanse and disinfect the same and the articles therein within a time specified in the notice. If this notice is not complied with, the person to whom it is given will be liable to a penalty of not less than one shilling and not more than ten shillings for every day during which he continues to make default; and the sanitary authority are required by the Act to cause the premises and the articles in question to be cleansed and disinfected, and are empowered to recover the expenses incurred from the owner or occupier in default in a summary manner. Where the owner or occupier is, from poverty or otherwise, unable, in the opinion of the sanitary authority, effectually to carry out the requirements of this section, the authority may, without enforcing such requirements, with the consent of the owner or occupier, cleanse and disinfect the premises and articles infected, and defray the expenses themselves.

Defects of this section.

This is a very defective section. The desirability of speedily disinfecting houses or rooms which have been occupied by persons suffering from infectious disease is now so generally recognised that it seems almost superfluous to require a certificate from the medical officer of health in every such case to the effect that the disinfection would tend to prevent or check infectious disease. But the further requirement that the sanitary authority shall arrive at the same conclusion as that expressed in the certificate of the medical officer of health is clearly unreasonable; and as it necessitates the postponement of any action on the certificate until the next meeting of the authority, it may be very mischievous. Moreover, when the meeting has been held, the authority have no power to do the disinfection themselves in the first instance, but are merely enabled to call upon the owner or occupier to do it under fear of a penalty; and it is only on his default that they may carry out the work themselves, in which case they may recover the expenses. It says much for the common sense of the general public, and the tact of sanitary authorities, that it was found possible for many years to work this cumbrous section, or rather to ignore its requirements and provide for the rapid disinfection of premises without recourse to litigation. A recalcitrant owner or occupier had merely to refuse to allow the officers of the sanitary authority to enter his premises in order to make it impossible for them to ascertain whether he had complied with their directions or not, and by this means to render proof of his non-compliance with those directions impossible. Under these circumstances it is fortunate that the section has been repealed and superseded by more reasonable provisions in districts in which Sections 5 and 17 of the Infectious Disease Prevention Act, 1890, have been adopted.

The former of these sections repeals Section 120 of the Public Health Act, 1875, so far as it applies to any urban or rural sanitary

[1] See the somewhat similar provisions in Section 46 of the same Act, p. 60.
[2] As to the disinfection of canal boats see p. 104.

district, in which the repealing section is adopted, and declares that the following provisions shall be in force in lieu thereof, viz. :—

Its repeal by Sec. 5 of the Infectious Disease Prevention Act, 1890.

(1) Where the medical officer of health of the sanitary authority or any other registered medical practitioner certifies that the cleansing and disinfecting of any house or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, the clerk to the sanitary authority shall give notice in writing to the owner or occupier that the same will be cleansed and disinfected by the sanitary authority at his cost, unless he informs them within twenty-four hours from the receipt of the notice that he will cleanse and disinfect the same to the satisfaction of the medical officer of health within a time fixed in the notice.

Substitution of other provisions.

(2) If within twenty-four hours from the receipt of the notice the person to whom it is given does not inform the sanitary authority as aforesaid, or if having so informed the authority he fails to have the house or part thereof and any such articles disinfected as aforesaid, within the time fixed by the notice, the same shall be cleansed and disinfected by the officers of the sanitary authority under the superintendence of the medical officer of health; and the expenses incurred may be recovered from the owner or occupier in a summary manner.

(3) Provided that where the owner or occupier is unable, in the opinion of the sanitary authority, or of their medical officer of health, effectually to cleanse and disinfect such house or part thereof, and any article therein likely to retain infection, the same may, without any such notice being given as aforesaid, be cleansed and disinfected by the officers of and at the cost of the sanitary authority.

For the purpose of carrying into effect the provisions of this section, Section 17 of the same Act empowers the sanitary authority by any officer appointed in that behalf, who shall produce his authority in writing, to enter on any premises between the hours of ten o'clock of the forenoon and six o'clock of the afternoon.

Superiority of the substituted provisions.

The superiority of these enactments over the corresponding provisions in Section 120 of the Public Health Act, 1875, is very great. In the first place, they insure that the notice to disinfect shall be served on the owner or occupier immediately after the receipt by the clerk to the sanitary authority of the certificate of the medical officer of health or other medical practitioner. In the second place, they give the owner or occupier an option, which must be exercised within twenty-four hours, of determining whether he will do the disinfecting himself, or leave it to the sanitary authority to do it for him at his cost. In the great majority of cases the work can be done better and more cheaply by the officers of the sanitary authority than by private individuals; and in the interests of the public health, as well as those of the owner or occupier, it is desirable that it should be done by these officers. Notwithstanding these considerations, the Public Health Act imposes a fine on any owner or occupier who leaves the work to be done by them. In the third place the Public Health Act merely requires the house, room, or articles to be disinfected, and in no way secures that the disinfection shall be effective. The substituted provisions require that the disinfection shall be to the satisfaction of the medical officer of health, and give the officer of the sanitary authority power to enter the house for the purpose of carrying the section into effect.

Destruction of infected bedding, &c. (Public Health Act, 1875, Sec. 121).

Section 121 of the Public Health Act enables any sanitary authority to direct the destruction of any bedding, clothing, or other articles which have been exposed to infection from any dangerous infectious disorder, and to give compensation of the same.

Disinfection of bedding, &c. (Infectious Disease Prevention Act, 1890, Sec. 6).

Section 6 of the Infectious Disease Prevention Act, 1890, enables the sanitary authority of any district in which the section has been adopted, or the medical officer of health of the authority generally empowered by the authority in that behalf, by notice in writing, to require the owner of any bedding, clothing, or other articles which have been exposed to the infection of any infectious disease [1] to which the Act applies to cause the same to be delivered over to an officer of the sanitary authority for the purpose of disinfection; and any person who fails to comply with this requirement is liable to a penalty not exceeding 10*l.*

The bedding, clothing, and articles must be disinfected by the authority, and be brought back and delivered to the owner free of charge; and if any of them suffer any unnecessary damage, the authority must compensate the owner for the same, and the amount of compensation will be recoverable in, and in case of dispute be settled by, a court of summary jurisdiction.

Provision of means of disinfection (Public Health Act, 1875, Sec. 122).

Section 122 of the Public Health Act, 1875, enables any urban or rural sanitary authority to provide a proper place with all necessary apparatus and attendance for the disinfection of bedding, clothing, or other articles which have become infected, and to cause any articles brought for disinfection to be disinfected free of charge. This is a most important power, and one which should be exercised by every sanitary authority. Where it is not exercised, it is obvious that the destruction of infected articles under Section 121 will have to be more frequently resorted to than where a proper public disinfecting apparatus is provided; for it will usually be impossible for individuals to effectually disinfect their clothing and bedding and other similar articles.

Infectious rubbish thrown into ashpits, &c., to be disinfected (Infectious Disease Prevention Act, 1890, Sec. 13).

Section 13 of the Infectious Disease Prevention Act, 1890, imposes a penalty not exceeding 5*l.*, and if the offence is a continuing one a daily penalty not exceeding 40*s.* a day, on any person who in a district in which that section is in force knowingly casts, or causes or permits to be cast, into any ashpit, ashtub, or other receptacle for the deposit of refuse matter any infectious rubbish without previous disinfection.

Notice to be given of this provision (Sec. 14).

Where this section is in force in any district, the sanitary authority must give notice of its provisions to the occupier of any house in which they are aware that there is a person suffering from an infectious disease.[1]

Powers and duties of sanitary authorities to provide hospitals (Public Health Act, 1875, Sec. 131; Infectious Disease Prevention Act, 1890, Sec. 15).

The foregoing provisions relate to the duties of individuals and sanitary authorities in connection with persons suffering from infectious disease, who are at large, or treated in private houses.

The Public Health Act,[2] however, contemplates that both urban and rural sanitary authorities shall provide hospitals for the isolation and treatment of persons suffering from infectious disease in their districts; and the Infectious Disease Prevention Act requires the same authorities, when they have adopted Section 15 of that Act, to provide from time to time, free of charge, temporary shelter or house accommo-

[1] As to the infectious diseases to which this Act applies see p. 158.

[2] As to the powers of county councils and hospital committees under the Isolation Hospitals Act, 1893, see pp. 167 to 171.

dation, with any necessary attendants, for the members of any family in which any infectious disease[1] has appeared, who have been compelled to leave their dwellings for the purpose of enabling them to be disinfected by the sanitary authority. Where hospitals are provided by the sanitary authority, orders of justices may be obtained for the removal thereto of persons who cannot be otherwise satisfactorily isolated. The power to provide these hospitals is given by Section 131 of the Public Health Act, 1875, which enables every urban and rural sanitary authority to 'provide for the use of the inhabitants of their district hospitals, or temporary places for the reception of the sick,' and for that purpose declares that they 'may themselves build such hospitals or places of reception, or contract for the use of any such hospital or part of a hospital or place of reception, or enter into any agreement with any person having the management of any hospital for the reception of the sick inhabitants of their district on payment of such annual or other sum as may be agreed upon.' The same section enables any two or more sanitary authorities to combine in providing a common hospital. But where any such arrangement is proposed, it will usually be found best to have a joint board[2] established for this purpose, the terms of the combination being permanently settled by the provisional order under which the joint board is constituted.

For the acquisition of land for the purpose of any hospital provided under this section, the provisions of the Public Health Act with respect to the purchase[3] and taking of lands on lease will be applicable. It will not unfrequently happen that the acquisition of lands for this purpose will be attended with exceptional difficulties in consequence of the fear that the erection of an infectious hospital may deteriorate the value of the adjoining land. It is hardly necessary to say that it is desirable that the site selected should be as little open to objection on this ground as practicable; and that it should not be in close proximity to other houses, to which the infection is likely to spread. In a rural district there should be comparatively little difficulty in selecting an unobjectionable site. In urban districts, where the population is densely packed, and the necessity for the hospital the most urgent, the difficulties are unfortunately greatly enhanced. One of them has, however, been removed by the decision of the Court of Appeal in the case of the *Withington Local Board of Health* v. *The Corporation of Manchester*, L. R. [1893], 2 Ch. 19, 62 L. J. Ch. 393, in which it has been decided that a hospital for infectious disease is not a noxious or offensive business within Section 112 of the Public Health Act, 1875; and that a sanitary authority may establish such a hospital outside their own district, and in an adjoining district, without obtaining, under Section 285 of the Act, the consent of the sanitary authority of the last-mentioned district.

It is satisfactory to know that, where a sanitary authority are really in earnest in the desire to provide their district with an infectious hospital, all difficulties, as a general rule, can be and are successfully surmounted, provided that the question of the hospital has not been postponed until the actual outbreak of an epidemic, and that the hospital for which the land is required is of the moderate dimensions

[1] As to the infectious diseases to which this Act applies see p. 158.

[2] As to the constitution of joint boards and united districts for this and other purposes see pp. 217 to 219.

[3] See p. 25.

Object of infectious hospitals.

necessary to isolate the first cases. In a memorandum issued by the Local Government Board on the Provision of Isolation Hospital Accommodation by sanitary authorities, stress is laid on the importance of a clear understanding that a hospital, to fulfil its proper purpose of sanitary defence, ought to be in readiness beforehand. During the progress of an epidemic the medical officer of the Board is of opinion that 'it is of little avail to set about hospital construction. The mischief of allowing infection to be spread from the first cases will already have been done, and this mischief cannot be repaired. Thus, hospitals provided during an epidemic are mainly of advantage to particular patients; they have little effect in staying the further spread of an infection. Moreover, hospitals provided under such circumstances to be of any use must be large and costly; and their construction can seldom be of a kind that is suited in after time for the isolation requirements of their districts.'

Power of guardians to transfer poor law hospitals to rural sanitary authority (Poor Law Act, 1879, Sec. 14).

Section 14 of the Poor Law Act, 1879, enables the guardians of any union to transfer to themselves, as rural sanitary authority, any hospital or building vested in them under the Acts relating to the relief of the poor, in order that the same may be used for the reception of persons suffering from any dangerous infectious disorder. The transfer in any such case must be made by a resolution of the guardians confirmed by an order of the Local Government Board, and after a date to be named in the order, the hospital or building will be deemed to be vested in the guardians as the rural sanitary authority of the union, for the use of the inhabitants of the union or part thereof named on the resolution and order. The principal considerations to be borne in mind by the guardians in these transfers are that the hospital or building should not be transferred, if it is required for poor law purposes, or if it is not suitable for an infectious diseases hospital, or if its use for that purpose is likely to spread disease amongst the workhouse inmates. In any of these cases it is unlikely that the resolution for the transfer will be confirmed by the Local Government Board. The fact that parts of the union are comprised in urban sanitary districts need not prevent the transfer; for the section provides that if the hospital is to be for the use of the inhabitants of any part of the union comprised in an urban sanitary district, the order of the Local Government Board confirming the resolution may determine the contribution to be made by the urban sanitary authority towards the maintenance of the hospital or building; and that where part of the union is in an urban sanitary district, and the hospital or building is not to be for the use of the inhabitants of that part, the order may determine the value of the interest of that part of the union therein, and the manner in which such value is to be paid to that part by the residue of the union, and the application of the money so paid.

In what cases patients may be removed compulsorily to hospitals (Sec. 124).

Where any suitable hospital or place for the reception of the sick is provided within the district of a sanitary authority, or within a convenient distance from such district, any person who is suffering from any dangerous infectious disorder, and is without proper lodging and accommodation, or lodged in a room occupied by more than one family, or is on board any ship or vessel, may, on a certificate signed by a legally qualified medical practitioner, and with the consent of the superintending body of such hospital or place, be removed by the order of any justice to such hospital or place at the cost of the sanitary authority; and any person so suffering, who is lodged in any common

lodging-house may, with the like consent and on a like certificate, be so removed by the order of the sanitary authority.

It seems doubtful whether the framers of this important section had primarily in view in drawing it the object of isolating the patient, or of providing for him in a hospital better treatment than he was likely to obtain in his lodging. On this point it is to be observed that the first case contemplated by the section is the one in which the patient is without proper lodging or accommodation—words which seem to imply that he is to be removed to the hospital rather for his own sake than that of his neighbours. The next alternative is that he shall be lodged in a room occupied by more than one family. There are of course an enormous number of cases in which a room occupied by only one family affords no means whatever of isolation, and in which it would be greatly to the advantage of the other inmates and the neighbourhood, if the patient could be compulsorily removed to a hospital, even if his lodging and accommodation are proper, so far as his own requirements are concerned. It is to be regretted that the terms of the section do not more clearly indicate that a patient may be removed compulsorily to a suitable hospital when there are not sufficient means of isolation in the house in which he is residing. That such a provision is desirable from a sanitary point of view can hardly be doubted; but possibly public opinion is not at the present time sufficiently alive to the advantages of isolation to render any such amendment of the law practicable.

To whom order of removal to be addressed. Penalty for disobedience or obstruction (Sec. 124).

An order for the removal of a patient to a hospital may be addressed to such constable or officer of the sanitary authority as the justice or sanitary authority [1] making the same may think expedient; and any person who wilfully disobeys or obstructs the execution of such order will be liable to a penalty not exceeding 10*l*.

Desirability of using persuasion rather than compulsion.

Though it will no doubt in certain cases be necessary to apply to a justice for an order of removal to a hospital, the necessity for doing this may often be obviated by a little tact and discretion on the part of the sanitary authority and their officers. It is undesirable that the hospital should be regarded as a place to which the sick are habitually removed compulsorily, and it is of course far better that hospital treatment should be regarded as a privilege, to which the ratepayer is entitled, than as a penance, which he is compelled to undergo by legal proceedings in the event of contumacy. Fortunately the prejudice of the lower classes against hospitals has been diminishing of late years. And in the great majority of cases, if the medical practitioner in attendance on a patient recommends his removal to a suitable hospital, no objection is likely to be raised by the patient or his family to the proposal, provided that it is understood that he will be conveyed thither and treated there at a charge not exceeding his means.

Provision of ambulances (Sec. 123). Power to recover cost of maintenance in hospital (Sec. 132).

Every urban and rural sanitary authority may provide and maintain one or more carriages suitable [2] for the conveyance of persons

[1] When the patient is lodged in a common lodging-house the order will be made by the sanitary authority (see above, p. 76).

[2] For the purpose of ascertaining what will be a suitable carriage for this purpose reference should be made to a memorandum issued by the Local Government Board in 1876, in which attention is drawn to the following points in connection with the provision and use of ambulances:—

1. If the ambulance be intended only for journeys of not more than a mile, it may be made so as to be carried between two people, or it may be on wheels and to be drawn by hand. If the distance be above a mile the ambulance should be

suffering under any infectious disorder, and may pay the expenses of conveying therein any person so suffering to a hospital or other place of destination. With respect to the expenses of maintenance in a hospital, Section 132 provides that any expenses incurred by a sanitary authority in maintaining in a hospital, or in a temporary place for the retention of the sick (whether or not belonging to such authority), a patient who is not a pauper shall be deemed to be a debt due from such patient to the sanitary authority, and may be recovered from him at any time within six months after his discharge, or from his estate in the event of his dying in such hospital or place.

On the manner in which the sanitary authority avail themselves of this power will depend to a great extent the popularity or the unpopularity of a hospital. It must be remembered, with respect to the class of workman who is not far removed from pauperism, that the illness of the head of the family has of itself a strong tendency to pauperise the family, owing to the loss of wages which it entails, and that if on his discharge from the hospital he is saddled with a long bill from the sanitary authority for his maintenance therein, which it is beyond his means to pay, his experiences are likely, when communicated to his fellows, to raise a prejudice against the hospital, which even from a monetary point of view may involve a heavier pecuniary loss than the foregoing of their claim for expenses against him would have done. Another somewhat curious point about the section is worthy of notice. It provides for the recovery of the expenses from the patient, and not from the parent of the patient, when the patient is under age. It appears from a case reported in the 'Law Times,' August 26, 1882, p. 298, that the judge of the Hastings County Court declined to construe the section as enabling the sanitary authority to recover the expenses from the parent, although the patient was under age.

Power to provide temporary supply of medicine for the poor (Sec. 133).

That it was not the intention of the Legislature in all cases where the patient is not a pauper to require him to pay the expenses of his maintenance in a hospital may perhaps be inferred from the provisions contained in Section 133 of the Act, which enables any sanitary authority, with the sanction of the Local Government Board, to themselves provide or contract with any person to provide a temporary supply of medicine and medical attendance for the poorer inhabitants of the district. These provisions, being included among those relating to infectious diseases and hospitals, are presumably intended to apply in the case of epidemics. They are not likely to prove very serviceable as a general rule in such cases, inasmuch as usually the simpler and

drawn by a horse. Every ambulance on wheels should have easy carriage springs.

2. In the construction of an ambulance special regard should be had to the fact that after each use it has to be cleansed and disinfected. The entire interior and the bed-frame and bed should be of materials that can be washed.

3. The ambulance should be such that the patient can lie full length in it, and the bed-frame and bed should be movable, so that the patient can be arranged upon the bed before being taken out of his house.

4. With an ambulance there should always be a person specially in charge of the patient, and a horse ambulance should have a seat for such person inside the carriage.

5. After every use of an ambulance for infectious disease it should be cleansed and disinfected to the satisfaction of a medical officer.

6. Both in very populous districts and in districts which are of very wide area it may often happen that more than one ambulance will be wanted at one time; and in any district, if more than one infectious disease is prevailing, there will be an evident sanitary advantage in having more than one ambulance for use.

more efficacious means of staying the progress of the epidemic will be the removal of the infected persons to isolation hospitals. They afford, however, a clear indication that it was not in all cases intended by Parliament that poor persons above the class of paupers should be charged for the assistance given to them in an epidemic by the sanitary authority.

Removal to hospital of infected persons brought into a district by ships (Sec. 125).

Before leaving the question of the removal of patients to hospitals it should be stated that Section 125 of the Public Health Act enables every sanitary authority to make regulations (to be approved by the Local Government Board) for removing to any hospital to which such authority are entitled to remove patients, and for keeping in such hospital so long as may be necessary, any persons brought within their district by any ship or boat who are infected with a dangerous infectious disorder, which regulations may impose on offenders against the same reasonable penalties not exceeding 40*s*. for each offence.

Application of provisions as to infectious diseases and hospitals to ships (Public Health (Ships, &c.) Act, 1885, Sec. 1).

The Public Health (Ships, &c.) Act, 1885, has provided that for the purposes of this section, and Sections 120, 121, 124, 126, 128, 131, 132, and 133 of the Public Health Act, the contents of all of which sections have been set out in the preceding pages, Section 110 of the Public Health Act shall have effect. The contents of this section will be found on page 66. It brings ships and vessels other than those belonging to the Queen's Navy, or to any foreign Government, under the jurisdiction of sanitary authorities in the same manner as if they were houses, and explains in what districts they are to be deemed to be situate.

Detention of infected person without proper lodging in hospital by order of justice (Infectious Disease Prevention Act, 1890, Sec. 12).

Where any person suffering from an infectious disease [1] has been removed, or has betaken himself to an infectious hospital, he may, if Section 12 of the Infectious Disease Prevention Act, 1890, has been adopted in the district, be compelled to remain in the hospital by a justice's order, at the cost of the sanitary authority, if he would not on leaving the hospital be provided with lodging or accommodation in which proper precautions could be taken to prevent his spreading the disorder. Any such justice's order may be limited to some specific time, but with full power to any justice to enlarge the time as often as may appear to him to be necessary. It will be lawful for any officer of the sanitary authority, or inspector of police acting in the district, or for any officer of the hospital, on any such order being made to take all necessary measures and do all necessary acts for enforcing the execution thereof.

Isolation Hospitals Act, 1893.

Of late years the importance of having infectious hospitals in readiness to isolate the early cases of an epidemic has been recognised to a greater extent than it formerly was ; but unfortunately many districts are still without them, and many sanitary authorities are indisposed to provide them. With a view to promoting their establishment, the Isolation Hospitals Act, 1893, was passed.

Limits of Act (Sec. 2).

This Act does not apply to London or to any county borough, nor to any borough with a population of 10,000 or upwards, according to the census for the time being, without the consent of the council of the borough ; nor to any borough with a smaller population without the like consent, unless the Local Government Board by order direct that the Act shall apply to it.

Subject to these limitations, it enables every county council to provide an isolation hospital, i.e. a hospital for the reception of patients

[1] As to the infectious diseases to which the Act applies see p. 158.

Powers of county council to provide hospitals or to cause them to be provided (Sec. 3). Applications (Secs. 4 and 5).

suffering from infectious disease, or to cause one to be provided in any district in their county, on application being made to them in manner provided by the Act, and on satisfactory proof being adduced that such a hospital is required. The application may be made by any urban or rural sanitary authority; or, as regards any rural parish, by the vestry (after the appointed day by the parish council or parish meeting), or by any number of ratepayers, not less than twenty-five. It must be made by petition, and must state the district for which it is alleged that the hospital is required, and the reasons which the petitioners adduce for its establishment. Any such petitions must be considered by the county council, by themselves or by a committee of their body

Local inquiry (Sec. 7).

appointed for that purpose; and if they are satisfied that a *primâ facie* case is made out, they must cause a local inquiry to be held into the necessity for the establishment of an isolation hospital, the proper site for it, and the district for which it is to be established. The inquiry will be held by a committee consisting of such number of the members of the council, either with or without the addition of such other persons, or in such other manner as the council think expedient. Due notice of the time and place at which it is to be held must be given, and any persons interested may attend and state their case.

Reports by medical officer of the county (Sec. 6).

Without any such application being made to them, the county council may, on their own initiative, direct an inquiry to be made by the medical officer of health of the county as to the necessity of an isolation hospital being established for the use of the inhabitants of any particular district in the county; and in the event of his reporting that such a hospital ought to be established, they may take the same proceedings in all respects for its establishment as if a petition had been presented by the local authority for the district named in his report.

Hospital districts (Sec. 8).

Every hospital district constituted under the Act must consist of one or more local areas, as defined by the Act. 'Local area' is defined as meaning any urban or rural sanitary district, or any contributory place, or, when a local area is included in more than one county, the part included in each county.

The county council may vary any proposed hospital district by adding to it or subtracting from it any local area. A local area already provided with such isolation hospital accommodation as may in the opinion of the county council be sufficient for its reasonable exigencies may not, without the assent of the local authority of the area, be included in a hospital district.

If any local authority, having jurisdiction within any part of the proposed hospital district, object to the formation of such a district, or to the addition or subtraction thereto or therefrom of any local area within their jurisdiction, they may at any time within three months from the date of the order appeal to the Local Government Board, whose decision will be conclusive.

Petition to be dismissed or hospital district constituted (Sec. 9).

On conclusion of their local inquiry as to the necessity for the establishment of an isolation hospital, the county council must make an order, either dismissing the petition, or constituting a hospital district, and directing an isolation hospital to be established for it. But they may not take steps for the constitution of a hospital district for one or more contributory places forming a portion of a rural sanitary district within the jurisdiction of the county council, or for one local area, unless the sanitary authority assent to the application,

or are proved to the satisfaction of the county council to be unable or unwilling to make suitable hospital accommodation for such place, places, or area.

Hospital committee (Sec. 10).

When a hospital district has been constituted, the county council must form a hospital committee, consisting wholly of their own members, or partly of their members and partly of representatives of the local area or areas in the district, or wholly of such local representatives. The county council must make regulations for the election, rotation, and qualification, and for all other matters relating to the constitution of any such committee, subject to these qualifications, that where no contribution is made by the county council to the funds of the hospital, the committee must consist, unless the constituent local authorities otherwise desire, wholly of representatives of the local area or local areas of the district, and that if any local authority within the hospital district feels aggrieved by the mode in which the committee is constituted, it may appeal to the Local Government Board, and that Board may modify the constitution of any committee so formed by the county council in such manner as they think expedient and just.

A hospital committee will have power to acquire land and all such other powers of providing a hospital by purchase or otherwise, and managing and maintaining the same when so provided, as the county council may delegate to them, except that the county council must retain to themselves the power of inspecting any such hospital, and of raising money by loan for the purposes of such hospital.

In what cases the sanitary authority may be invested with powers of a hospital committee.

Where a hospital district is an area wholly or as to the greater part thereof under the jurisdiction of any corporate local authority, the county council may, if they think fit, invest such local authority with all the powers of a hospital committee under the Act, and thereupon such authority will be deemed to be the hospital committee for such district, and will exercise all the powers of such committee under its original corporate name.

Purchase of land for hospital (Sec. 11).

Subject to any directions given by the county council, a hospital committee may purchase or lease any land, whether within or without the hospital district, for the purpose of erecting thereon an isolation hospital, and may exercise all the powers[1] conferred on a sanitary authority by the provisions of the Public Health Act, 1875, and the Acts amending the same, relating to the purchase of lands.

Management of hospital, and regulations (Sec. 12).

A hospital committee may from time to time make all necessary rules and regulations for the conduct and management of their hospital and the patients therein.

Ambulances to be provided (Sec. 13).

Every isolation hospital established under the Act must be provided with an ambulance or ambulances for the purpose of conveying patients to the hospital, and, so far as practicable, be in connection with the system of telegraphs.

Additional hospital accommodation (Sec. 14).

A hospital committee may, in expectation of or in the event of an outbreak of any infectious disease, provide any accommodation in addition to their existing accommodation, by hiring or otherwise acquiring any buildings, tents, wooden houses, or other places for the reception of patients. They may also, in addition to, or instead of, providing a central hospital, establish within their district hospitals in cottages or small buildings, or otherwise as they may think expedient; and before they have established one or more permanent

[1] As to these powers, see pp. 25 and 26.

hospitals they may provide for their district temporary accommodation of the description above indicated.

Training of nurses (Sec. 15).

Subject to any regulations made by the county council they may make arrangements for the training of nurses for attendance on patients suffering from any infectious disease, either inside or outside the hospital, and may charge for the attendance of such nurses outside the hospital; and the expenses of any such nurses, after deducting any profits derived from their services, will be establishment expenses of the hospital, within the meaning of the Act.

Classification of expenses (Sec. 17).

The expenses incurred in respect of any isolation hospital under the Act will be classified as structural expenses, establishment expenses, and patients' expenses.

'Structural expenses' will include the original cost of providing the hospital, including the purchase (if any) of the site, and the furnishing such hospital with the necessary appliances and furniture required for the purpose of receiving patients; also any permanent extension or enlargement of the hospital, or any alteration or repair of the drainage, and any structural repairs; but will not include ordinary repairs, painting, cleaning, or the renewal or keeping in order of the appliances and furniture, or the supply of new appliances or furniture.

'Establishment expenses' means the cost of keeping the hospital, its appliances and furniture, in a state requisite for the comfort of the patients; also the salaries of the doctors, nurses, servants, and all other expenses for maintaining the hospital in a fit state for the reception of patients.

'Patients' expenses' mean the cost of conveying, removing, feeding, providing medicines, disinfecting, and all other things required for patients individually, exclusive of structural and establishment expenses.

Charges for patients (Sec. 16).

Every person admitted into the hospital may be charged such sum as the hospital committee may think sufficient to defray the 'patients' expenses' incurred in respect of him; and there may be added thereto in the case of persons brought from beyond the hospital district such sum as the committee may think fit, as a contribution to the structural and establishment expenses.

Persons desirous of being provided with accommodation of an exceptional character may be so provided on their undertaking, to the satisfaction of the committee, to pay for the same a sum fixed by the committee, and also to pay for all other expenses incurred in respect of their maintenance in the hospital, and all expenses so incurred in respect of such a patient are in the Act referred to as 'special patients' expenses.'

Payment of expenses (Sec. 18).

All expenses incurred by a county council or by a hospital committee under the Act, with the exception of patients' expenses and special patients' expenses, will, when a hospital district consists of a single local area, be defrayed out of the local rate of that area, and, where the hospital district consists of more than one local area, will be paid out of a common fund to which the local authorities in the hospital district will contribute in such proportions as the county council by their order constituting the district may determine.

Recovery of patients' expenses (Sec. 19).

Patients' expenses, in respect of any person who at the time of his reception into the hospital, or at any time within fourteen days previously, is or has been in receipt of poor law relief, will be a debt due

to the hospital committee from the guardians of the union from which he is sent, and will be recoverable from them in a summary manner or otherwise. In respect of a non-pauper patient they will be a debt due to the hospital committee, and recoverable in a summary manner from the local authority of the local area from which the patient is sent.

Special patients' expenses will be a debt recoverable in a summary manner from the patient, or from the estate of the patient, in respect of whom the expenses have been incurred.

The expenses of the burial of any patient dying in the hospital will be payable in the same manner in which the expenses of his maintenance are payable.

Power of county council to contribute to hospitals (Sec. 21).

A county council may, where they deem it expedient so to do for the benefit of the county, contribute out of the county rate a capital or annual sum towards the structural and the establishment expenses of an isolation hospital under the Act, or to either class of such expenses.

Power to borrow (Sec. 22).

A county council may borrow on the security of the county rate, and in manner provided by the Local Government Act, 1888, any money required for the purpose of carrying into effect the provisions of this Act; and any loans so borrowed, and any other money expended by them for the purposes of the Act, together with interest thereon at the rate of four pounds per centum per annum, will be repaid to them out of the local rate.

Treatment in hospitals not to disqualify (Sec. 23).

A person will not by reason of his being admitted into and maintained in a hospital established in pursuance of the Act suffer any disqualification or any loss of franchise or other right or privilege.

Removal to mortuaries and subsequent burial in certain cases of bodies of persons who have died from infectious disease (Public Health Act, 1875, Sec. 142).

It is of course of the greatest importance from a sanitary point of view that the dead bodies of persons who have died of infectious disease should not remain unburied in such a manner as to endanger the health of the survivors. An attempt is made to provide against this danger by Section 142 of the Public Health Act, under which, where the dead body of one who has died of any infectious disease is retained in a room in which persons live or sleep, any justice may, on a certificate signed by a duly qualified practitioner, order the body to be removed at the cost of the sanitary authority to any mortuary [1] provided by the authority, and direct the same to be buried within a time limited by the order; and unless the friends or relatives of the deceased undertake to bury the body within the time so limited, and do bury the same, it will be the duty of the relieving officer to bury such body at the expense of the poor rate; but any expense so incurred may be recovered by him in a summary manner from any person legally liable to pay the expense of such burial. Any person obstructing the execution of an order made under this section will be liable to a penalty not exceeding 5*l.*

Prohibiting retention of dead bodies in certain cases (Infectious Disease Prevention Act, 1890, Sec. 8).

Further provisions in relation to the bodies of persons who have died from infectious disease are contained in Sections 8 to 11 of the Infectious Disease Prevention Act, 1890. The first of these sections prohibits [1] any person from retaining such a body unburied elsewhere than in a public mortuary, or in a room not used at the time as a dwelling-place, sleeping-place, or workroom, except with the sanction

[1] The penalties for any offence under this section, or Section 10, or any other section of the Act by which a specified penalty is not imposed are a penalty not exceeding 5*l.* and a daily penalty not exceeding 40*s.* a day.

in writing of the medical officer of health or of a registered medical practitioner.

Bodies of persons dying from infectious disease in hospital, &c., to be removed only for burial (Sec. 9).

The next section (Section 9) deals with cases where persons die from any [1] infectious disease in any hospital or place of temporary accommodation for the sick, and the medical officer of health, or any other registered practitioner, certifies that in his opinion it is desirable in order to prevent the risk of communicating any infectious disease, or of spreading infection, that the body shall not be removed therefrom except for the purpose of being forthwith buried. In such a case it will not be lawful for any person or persons to remove the body from the hospital or place in question except for the purpose of being forthwith buried; and when the body is taken out for that purpose it must be forthwith carried or taken direct to some cemetery or place of burial, and be there forthwith buried; and any person wilfully offending against this section will be liable to a penalty not exceeding 10*l*. Nothing in the Act will, however, prevent the removal of any dead body from any hospital or temporary place of accommodation for the sick to any mortuary, and such mortuary will for the purposes of the section be deemed to be part of the hospital or place of temporary accommodation.

Justices may in certain cases order bodies to be buried (Sec. 10).

Section 10 provides that where the body of any person who has died from any infectious disease remains unburied elsewhere than in a mortuary or in a room not used at the time as a dwelling-place, sleeping-place, or workroom, for more than forty-eight hours after death, without the sanction of the medical officer of health or of a registered medical practitioner, or where the dead body of any person is retained in any house or building, so as to endanger the health of the inmates of such house or building, or of any adjoining or neighbouring house or building, any justice may on the application of the medical officer of health order the body to be removed at the cost of the sanitary authority to any available mortuary, and direct the same to be buried within a time to be limited in the order; and any justice may in the case of the body of any person who has died of any infectious disease,[1] or in any case in which he shall consider immediate burial necessary, direct the body to be so buried, unless the friends and relatives of the deceased undertake to bury and do bury the body within the time limited by such order. It will be the duty of the relieving officer of the relief district from which the body has been removed to the mortuary, or in which the body shall be, if it has not been so removed, to bury the body, and any expense so incurred may be charged by him in his account.

Disinfection of public conveyances if used for carrying corpses (Sec. 11).

Section 11 declares that any person who hires or uses a public conveyance other than a hearse for the conveyance of the body of a person who has died from any infectious disease,[1] without previously notifying to the owner or driver of such conveyance that the person whose body is, or is intended to be, so conveyed has died from infectious disease; and after any such notification as aforesaid any owner or driver of a public conveyance, other than a hearse, which has been used for conveying the body of a person who has died from infectious disease who shall not immediately afterwards provide for the disinfection of such conveyance shall be guilty of an offence [2] against the Act.

[1] As to the diseases to which the Act applies see p. 158.

[2] The effect of this declaration is to render the offender liable to a penalty not exceeding 5*l*.; and if the offence is a continuing one, to a daily penalty not exceeding 40*s*. so long as the offence continues.

Closing of public elementary schools, or exclusion of particular children therefrom during epidemics.

In the case of epidemics of certain infectious diseases, e.g. scarlet fever, measles, diphtheria, whooping cough, and smallpox, which spread directly by infection from person to person, the question not unfrequently arises whether it is not to the interest of the district that the public elementary schools should be temporarily closed, or that scholars who are likely to bring the disease to the school should be excluded from attendance. The codes of regulations approved by the Lords' Committee of Council on Education have now for many years past contained provisions, prescribing, as one of the general conditions required to be fulfilled by a public elementary school in order to obtain an annual parliamentary grant, that the managers of the school must comply with any notice of the sanitary authority of the district in which the school is situated requiring them for a specified time, with a view to preventing the spread of disease, either to close the school or to exclude any scholars from attendance, subject to an appeal to the Education Department, if the managers consider the notice to be unreasonable.

The power thus given to the sanitary authority is a very important one, and one which requires to be exercised with considerable discretion, so as to avoid any unnecessary interruption in the work of education. The considerations by which a sanitary authority should be guided in giving or refraining from giving the notice in question to the managers, and in deciding whether, if given, it shall require the closing of the school, or merely the exclusion of certain scholars from attendance, are set out very clearly in certain memoranda prepared by the Medical Department of the Local Government Board, which may be studied with advantage by medical officers of health when called upon to advise their sanitary authorities on this subject. The authority will do well in these cases to be guided by the advice of their medical officer of health, who in his turn will do well to remember that an appeal lies from the notice of the sanitary authority to the Education Department, and that he must therefore be prepared to justify the action recommended by him in this matter. With this object he will probably consider it desirable to fortify himself by a study of the memoranda above referred to in order that he may quote, in the event of an appeal to the Central Authority on Education, the views endorsed by the Central Authority on Public Health. These memoranda are too long to justify their insertion in this portion of the present work. The following quotations from them may, however, not improperly find a place here. 'The mere fact that in an epidemic many of the sufferers are school children does not necessarily show that the disease was caught at school; but the school may with probability be regarded as spreading infections if in a large majority of households attacked, the first case be a child attending school; and with still greater probability if a number of children, living at a distance from one another, and with no circumstances in common, except that they attend the same school, should be simultaneously attacked, and if it can be ascertained that a child or teacher in an infectious state has actually been attending the school.' 'If, by reason of the absence or exclusion of a large number of children, the attendance at a school be greatly reduced, it may be found better to close it altogether. This is especially apt to occur in the case of epidemics of measles, a disease which is very infectious in the early stages, before the characteristic rash has appeared, and while the symptoms are only those of a common cold.'

Memoranda of Local Government Board on school closing.

'In sparsely populated rural districts, where the children of different households, or of separate hamlets, rarely meet except at or on their way to the village school, the closing of the school is likely to be effectual in checking the spread of disease. It is less likely to be useful in a town or compact village (particularly where houses are sublet and yards are in common); where the children of different households, when not at school, spend their time in playing together, and often run in and out of each other's houses. In some such places the closing of schools has even appeared to do harm rather than good.' 'In rural districts where epidemic diseases are less frequently prevalent, school-managers may more fairly be asked to close their schools, as an exceptional measure to meet an exceptional state of things. As regards more populous places it must not be forgotten that if schools were to be closed whenever an infectious disease was prevalent, there are many places where schools would hardly ever be open.

Milk supplies.

In cases where there is any suspicion that an epidemic of infectious disease has its origin in any milk supply of the district, the powers [1] of sanitary authorities, under the Contagious Diseases (Animals) Acts, should not be lost sight of. These powers were conferred on sanitary authorities with the express object of enabling a more complete supervision to be exercised than was formerly done over the sanitary condition and surroundings of dairies, cowsheds, and milk-shops, and protecting the milk from contamination or infection.

Power to prohibit supply of milk from suspected dairies (Infectious Disease Prevention Act, 1890, Sec. 4).

In addition to these powers the sanitary authorities of districts in which Section 4 of the Infectious Disease Prevention Act, 1890, is in force and their officers have very important powers and duties under that section in cases where the medical officer of health is in possession of evidence that any person in the district is suffering from infectious disease [2] attributable to milk supplied within the district from any dairy [3] situated within or without the district, or that the consumption of milk from such dairy is likely to cause infectious disease to any person residing in the district. In any such case the medical officer of health is empowered, if authorised in that behalf by an order of a justice having jurisdiction in the place where the dairy is situate, to inspect the dairy, and, if accompanied by a veterinary inspector [4] or other proper qualified veterinary surgeon, to inspect the animals therein; and if, on such inspection, the medical officer of health is of opinion that infectious disease is caused by the consumption of the milk supplied therefrom, he must report thereon to the sanitary authority, and his report must be accompanied by any report furnished to him by the said veterinary inspector or veterinary surgeon. The sanitary authority may thereupon give notice to the dairyman [5] to appear before them within such time, not less than twenty-four hours, as may be specified in the notice, to show cause why an order should not be made requiring him not to supply milk therefrom within the district until such order has been withdrawn by the sanitary authority; and if, in the opinion

[1] As to these powers see pp. 143 to 147.

[2] As to the infectious diseases to which this Act applies see p. 158.

[3] 'Dairy' is defined in Section 2 of the Act as including any farm, farmhouse, cowshed, milk-store, milk-shop, or other place from which milk is supplied, or in which milk is kept for purposes of sale.

[4] The reasonable remuneration of the veterinary inspector or surgeon are directed by Section 20 of the Act to be paid as part of the expenses of the sanitary authority in the execution of the Act.

[5] 'Dairyman' for the purposes of the Act includes any cowkeeper, purveyor of milk, or occupier of a dairy.

of the sanitary authority, he fails to show such cause, then the sanitary authority may make the order. And the sanitary authority must forthwith give notice of the facts to the sanitary authority and county council, if any, of the district or county in which the dairy is situate, and also to the Local Government Board. An order made by the sanitary authority in pursuance of this section must be forthwith withdrawn on the sanitary authority or the medical officer of health on its behalf being satisfied that the milk supply has been changed, or that the cause of the infection has been removed. Any person refusing to permit the medical officer of health, on the production of the justice's order, to inspect the dairy, or if accompanied by a veterinary inspector or veterinary surgeon to inspect the animals kept there, or, after the order of the sanitary authority has been given under the section not to supply milk, supplying any milk within the district in contravention of the order, or selling it for consumption therein, will be liable to a penalty not exceeding 5*l.*, and if the offence is a continuing one to a daily penalty not exceeding 40*s.* a day so long as the offence continues. Proceedings in respect of the offence must be taken before the justices having jurisdiction in the place where the dairy is situate. No dairyman will be liable to an action for breach of contract if the breach be due to an order from the sanitary authority under this section.

The powers given by this section are very valuable, and if properly and wisely exercised may greatly facilitate the investigation of the origin of epidemics in cases where an outbreak of infectious disease is suspected to originate in the milk supplied from any particular farm, cowshed, or milk-shop. When the clause in its original form was before the House of Commons it aroused considerable opposition on the part of the milk trade, and modifications were made in it with a view to meeting the objections raised by the trade. One of the most important of these was the provision which only enables the medical officer of health to inspect the animals in the farm or cowshed if accompanied by a veterinary inspector or veterinary surgeon. Another was that which requires the report of the medical officer of health to the sanitary authority to be accompanied by any report furnished to him by the veterinary inspector or surgeon. These provisions were inserted with the object of securing a joint examination of the cows by the medical officer of health and the veterinary surgeon and that the sanitary authority should have before them along with the report of the medical officer of health the views of the veterinary surgeon as to the health and condition of the cows. While safeguarding the interests of the trade, the section in its present form seems likely also to promote the interests of sanitary science by bringing together members of the medical profession and veterinary surgeons in the investigation of diseases of the cow which are suspected of spreading infection among human beings.

The Infectious Disease (Notification) Act, 1889.

In some districts the foregoing provisions have been supplemented by subsidiary provisions contained in local Acts, of which the most important are those rendering the notification of infectious diseases compulsory. In districts, however, in which no such local Acts were in force, and no similar powers had been obtained by provisional order, no machinery existed by which ordinary individuals [1] or medical

[1] As has been shown at pp. 74 and 104, the keepers of common lodging-houses and the masters of canal boats can be required to furnish this information

Individuals and medical practitioners to give notices and certificates of cases of infectious disease (Sec. 3).

practitioners could be forced to give notice to the sanitary authority of the cases of infectious disease occurring in the district prior to the passing of the Infectious Disease (Notification) Act, 1889. Section 3 of this Act, which may be adopted by any urban, rural, or port sanitary authority,[1] provides that where an inmate of any building used for human habitation within a district to which the Act extends [2] is suffering from an infectious disease [3] to which the Act applies, then, unless the building is a hospital in which persons suffering from an infectious disease are received, the following provisions shall have effect, that is to say—

'(*a*) The head of the family to which such inmate (in the Act referred to as the patient) belongs, and in his default the nearest relatives of the patient present in the building or being in attendance on the patient, and in default of such relatives every person in charge of or in attendance on the patient, and in default of any such person the occupier of the building, must, as soon as he becomes aware that the patient is suffering from an infectious disease to which the Act applies, send notice thereof to the medical officer of health of the district. Every medical practitioner attending on or called in to visit the patient must forthwith, on becoming aware that the patient is suffering from an infectious disease to which the Act applies, send to the medical officer of health for the district a certificate stating the name of the patient, the situation of the building, and the infectious disease from which, in the opinion of such medical practitioner, the patient is suffering.

Penalty on failure to give notice or certificate.

'Every person required under the above provisions to give a notice or certificate who fails to do so is liable on summary conviction to a fine not exceeding 40*s*., subject to this exception, that if a person is not required to give notice in the first instance, but only in default of some other person, he will not be liable to any fine if he satisfies the court that he had reasonable cause to suppose that the notice had been duly given.'

apart from the provisions of the Infectious Disease (Notification) Act, 1889. And by Art. 3 of a General Order of the Local Government Board, dated February 12, 1879, made under the Poor Law Acts, every medical officer appointed by a board of guardians after February 28, 1879, whether for a district or a workhouse, is required immediately upon the occurrence of any case of contagious, infectious, or epidemic disease of a dangerous character among the pauper patients under his care, to give notice thereof to the clerk of the sanitary authority of the urban or rural sanitary district as the case may be, within which he acts as a medical officer, or to the medical officer of health of such authority. He is also required by the same article to furnish from time to time to the medical officer of health such information with respect to the cases of sickness and the deaths of pauper patients under his care as the Local Government Board may direct. A similar obligation is imposed by another order of the Board, dated June 14, 1879, upon medical officers of district schools appointed after June 24, 1879. In a memorandum issued by the Board on July 20, 1879, attention is drawn to these requirements, and the guardians are informed that (except where the medical officer of health is himself the poor law medical officer for the whole sanitary area under his superintendence, in which case he will, of course, possess this information) they should instruct their clerk to copy from the district medical officers' relief lists the new cases which are reported at each meeting of the guardians, and to forward the same promptly and regularly to the medical officers of health within the union. But the information given in those cases will, of course, fall very far short of the complete information of cases of infectious disease occurring within the district, which is required to be furnished in districts to which the provisions of the Infectious Disease (Notification) Act, 1889, extend.

[1] As regards port sanitary authorities see pp. 220 to 224.

[2] The Act extends to every rural harbour or port sanitary district after the adoption thereof (Section 2).

[3] As to the diseases to which the Act applies see p. 178.

Application of Act to vessels, tents, &c. (Sec. 13).

It will be observed that the above provisions relate only to the inmates of buildings. Section 13 of the Act, however, declares that the provisions of the Act shall apply to every ship, vessel, boat, tent, van, shed or similar structure used for human habitation, in like manner as nearly as may be as if it were a building; and that a ship, vessel, or boat lying in any river, harbour, or other water not within the district of any sanitary authority shall be deemed for the purposes of the Act to be within the district of such sanitary authority as may be fixed by the Local Government Board; and where no sanitary authority has been fixed, then of the sanitary authority of the district which nearest adjoins the place where such ship, vessel, or boat is lying.

Exemption of Crown buildings, &c. (Sec. 15).

This section will not, however, apply to any ship, vessel, or boat belonging to any foreign Government, and a subsequent section (Section 15) provides that nothing in the Act shall extend to any building, ship, vessel, boat, van, tent, shed, or similar structure belonging to Her Majesty the Queen, or to any inmate thereof.

How notices and certificates to be given (Sec. 4 [3] and 8 [2]).

A notice or certificate to be sent to a medical officer of health in pursuance of the Act may be sent by being delivered to him, or by being left at his office or residence, or may be sent by post addressed to him at his office or at his residence. Where in any district of a sanitary authority there are two or more medical officers of health of the authority, the certificate must be given to such one of them as has charge of the area in which the patient referred to in the certificate is, or to such other of them as the local authority may from time to time direct.

Definition of occupier (Sec. 16).

The expression 'occupier,' which occurs in Section 3, is defined by Section 16 as including a person having the charge, management, or control of a building, or of the part of a building in which the patient is, and in the case of a house the whole of which is let out in separate tenements, or in the case of a lodging-house the whole of which is let to lodgers, the person receiving the rent payable by the tenants or lodgers either on his own account or as the agent of another person, and in the case of a ship, vessel, or boat, the master or other person in charge thereof.

Form of certificates (Sec. 4)

Section 4 of the Act enables the Local Government Board from time to time to prescribe forms for the purpose of certificates under the Act, and requires any forms so prescribed to be used in all cases to which they apply. The Board, in pursuance of this power, on September 12, 1879, issued an order prescribing the form of certificate required by the Act to be sent to the medical officer of health by the medical practitioner.

To be supplied gratuitously.

Fees for certificates.

Where the Act has been adopted the sanitary authority are required to gratuitously supply these forms to any medical practitioner residing or practising in their district who applies for them, and to pay to every medical practitioner for each certificate duly sent by him in accordance with the Act a fee of two shillings and sixpence if the case occurs in his private practice, and of one shilling if the case occurs in his practice as medical officer of any public body or institution.

Where a medical practitioner attending on a patient is himself the medical officer of health of the district, he will be entitled to the same fee as if he were not such medical officer.

Expenses of execution of Act (Sec. 9).

Any expenses incurred by a sanitary authority in the execution of the Act will be paid as part of the expenses of such authority in the execution of the Acts relating to the public health, and in the case of a rural sanitary authority will be general expenses.

Adoption of Act (Sec. 5).

As already mentioned, the Act may be adopted by any urban, rural, or port sanitary authority, and it only extends to any district after its adoption. It must be adopted by a resolution passed at a meeting of the sanitary authority. Fourteen clear days at least before such meeting special notice of the meeting and of the intention to propose the resolution must be given to every member of the authority.

When a resolution has been passed adopting the Act it must be published by advertisement in a local newspaper, and by handbills, and otherwise in such manner as the sanitary authority think sufficient for giving notice thereof to all persons interested.

The resolution will come into operation at such time, not less than one month after the first publication of the advertisement thereof, as the sanitary authority may fix ; and upon its coming into operation the Act will extend to the district. A copy of the resolution must be sent to the Local Government Board.

Infectious diseases to which the Act applies (Secs. 6, 7).

The infectious diseases to which the Act applies will in all cases include the following diseases : smallpox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names—typhus, typhoid, enteric, relapsing, continued, or puerperal. If the sanitary authority of any district to which the Act extends desire that the Act shall in their district apply to any infectious disease other than the above, they may from time to time, by a resolution passed at a meeting where the like special notice of the meeting and of the intention to propose the resolution has been given as is required in the case of a meeting held for adopting the Act, order that the Act shall in their district apply to such disease. The order embodied in the resolution may be permanent or temporary, and, if temporary, the period during which it is to continue in force must be specified therein, and any such order may be revoked or varied by the local authority by whom the order is made. But no such order, or any revocation or variation of it, will be of any validity until approved by the Local Government Board. When it has been so approved the sanitary authority must give public notice of it by advertisement in a local newspaper and by handbills, and otherwise in such manner as they think sufficient for giving information to all persons interested. They must also send a copy thereof to each registered medical practitioner whom, after due inquiry, they ascertain to be residing or practising in their district.

The order will come into operation at such date, not earlier than one week after the publication of the first advertisement of the approved order, as the sanitary authority may fix, and upon such order coming into operation, and during the continuance thereof, an infectious disease mentioned in such order will, within the district of the authority, be an infectious disease to which the Act applies.

In the case of emergency three clear days' notice under the above provisions will be sufficient, and the resolution must declare the cause of such emergency and must be for a temporary order, and a copy thereof must be forthwith sent to the Local Government Board and advertised, and the order will come into operation at the expiration of one week from the date of such advertisement ; but unless approved by the Local Government Board will cease to be in force at the expiration of one month after it is passed, or any earlier date fixed by the Local Government Board.

The approval of the Local Government Board will be conclusive evidence that the case was one of emergency.

Extent to which the Act has been adopted.

It appears from the Twenty-second Annual Report of the Local Government Board that up to March 31, 1893, the above Act had been adopted in 1,144 urban and rural sanitary districts, with an aggregate population (1891) of 17,048,949.

It is also in force in London, with a population (1891) of 4,231,431.

Similar provisions were at the same date in force by means of local Acts in towns with an aggregate population of 3,832,578.

The notification system was therefore in force in places containing an aggregate population (1891) of 25,112,958, out of a total population of 29,001,018.

It also appears from the same report that the Act had been adopted in twenty-three port sanitary districts, the population of which cannot be separately stated; and that in seventy-eight instances the sanitary authorities had availed themselves of the power to require the notification of diseases other than those specified in the Act. Measles had been added in seventy-six cases, whooping-cough in eight, rötheln or German measles in four, chicken-pox in three, and hydrophobia in one. Ten towns had substituted the provisions of the Act for corresponding provisions contained in their local Acts.

Its utility.

Having regard to the very material assistance which sanitary authorities may derive from it by obtaining early and accurate information with respect to cases of infectious disease occurring in their districts, there can be little doubt that in districts where they have not already adopted the Act they would act wisely if they were to do so as early as practicable. And it seems a question whether, having regard to the extent to which it has been adopted, and the desirability of making the law on this question uniform throughout the country, the time has not come when the Act should be put in force by Parliament in every district of the country.

(*b*) The Law relating to Cholera and Extraordinary Epidemics

Power of Local Government Board to make regulations as to cholera, &c. (Public Health Act, 1875, Sec. 130).

Section 130 of the Public Health Act, 1875, enabled the Local Government Board from time to time to make, alter, and revoke such regulations as might seem fit to the Board with a view to the treatment of persons affected with cholera, or any other epidemic, endemic, or infectious disease, and preventing the spread of cholera and such other diseases, as well on the seas, rivers, and waters of the United Kingdom, and on the high seas within three miles of the coast thereof as on land; and further empowered the Board to declare by what authority or authorities such regulations should be enforced and executed. Regulations so made were required to be published in the 'London Gazette,' and such publication was to be for all purposes conclusive evidence of such regulations. Any person wilfully neglecting or refusing to obey or carry out, or obstructing the execution of, any regulation made under this section was rendered liable to a penalty not exceeding 50*l*.

Extension of these powers (Public Health Act, 1889, Sec. 2).

The powers thus given were extended by the Public Health Act, 1889, which declared that regulations made under the above section might provide for their being enforced and executed by the officers of Customs as well as by other authorities and officers, and might also provide for the detention of vessels and of persons on board vessels,

and for the duties to be performed by pilots, masters of vessels, and other persons on board vessels. It also empowered the officers of Customs, for the purpose of the execution of any powers and duties under the regulations, to exercise any powers conferred on them by any other Act. But the regulations, so far as they might apply to the officers of Customs, were to be subject to the consent of the Commissioners of Customs.

Regulations now in force under these sections

The regulations now in force under these enactments were made by orders of the Local Government Board, dated August 28, 1890, and September 6, 1892. At the time when they were made cases of cholera were occurring on the Continent; but they were designed for the protection of the English shores from cholera habitually, and not merely on the occasions which led to their being made. They have received the consent of the Commissioners of Customs, required by the Public Health Act, 1889.

These orders were addressed to all port sanitary authorities,[1] to all other sanitary authorities, to the Queen's harbour masters of dockyard ports; to all officers of Customs; to all medical officers of health of the aforesaid sanitary authorities; to all masters of ships; and to all pilots. And very important duties were imposed by the orders on all these authorities and persons.

Definitions.

For the purposes of the orders (1) so much of a Customs port abutting on an urban or rural sanitary district as is nearer to such district than to any other, and is not included within the jurisdiction of any port sanitary authority, is to be deemed to be within such district; and (2) every ship is to be deemed infected with cholera, in which there is or has been during the voyage or during the stay of such ship in a port in the course of such voyage any case of cholera.

The following terms in the orders have the following meanings: 'Ship' includes vessel or boat; 'officer of Customs' includes any person acting under the authority of the Commissioners of Customs; 'master' includes the officer, pilot, or other person for the time being in charge or command of a ship; 'cholera' includes choleraic diarrhœa; 'sanitary authority' means every port sanitary authority, and every urban or rural sanitary authority whose district includes or abuts on any part of a Customs port, which part is not within the jurisdiction of a port sanitary authority; and 'medical officer of health' includes any duly qualified medical practitioner appointed by a sanitary authority to act in the execution of the order.

Detention of infected ships by officers of Customs (Order of 1890, Arts. 2 to 5)

Articles 2 to 5 of the order of August 28, 1890, provide for the detention by the officers of Customs of ships infected with cholera. They require every officer of Customs, if on the arrival of any ship he ascertains from the master of such ship or otherwise, or has reason to suspect, that the ship is infected with cholera, to detain such ship, and order the master forthwith to moor or anchor the same in such position as such officer of Customs shall direct; and thereupon the master must forthwith moor or anchor the ship accordingly. Whilst such ship is so detained, no person may leave the same.

The officer of Customs detaining any ship under the above provisions must forthwith give notice thereof, and of the cause of such detention, to the sanitary authority of the place to which the ship is bound, or where the ship is about to call.

[1] As regards the constitution and jurisdiction of port sanitary authorities see pp. 220 to 224.

Such detention by the officer of Customs will cease as soon as the ship has been duly visited and examined by the medical officer of health; or if the ship, upon such examination, is found to be infected with cholera, as soon as the same is moored or anchored in pursuance of Article 10 of the order.

If, however, the examination be not commenced within twelve hours after the above notice has been given, the ship must, on the expiration of the twelve hours, be released from detention.

Fixing of mooring place by sanitary authority (Art. 6).

Article 6 provides that every port sanitary authority, and every other sanitary authority within whose district persons are likely to be landed from any ship coming foreign shall, as speedily as practicable, with the approval of the chief officer of Customs of the port, fix some place where any ship may be moored, or anchored, for the purpose of Article 10 of the order, and shall make provision for the reception of cholera patients and persons suffering from illness removed under Articles 13 and 14.

The place to be so fixed must be some place within the jurisdiction or district of the sanitary authority, unless the Local Government Board otherwise consent; in which case the place so fixed is, for the purposes of the order, to be deemed to be within such jurisdiction or district.

In the case of any dockyard port for which a Queen's harbour master has been appointed the place where any ship is moored or anchored for the purpose of this article must be from time to time fixed with the approval of the Queen's harbour master instead of that of the chief officer of Customs of the port.

Where, in pursuance of the regulations [1] of the Local Government Board of July 12, 1883, and of April 21, 1884, places have been duly fixed for the mooring or anchoring of ships for the like purpose, such places are to be deemed to have been so fixed in pursuance of this order.

Detained ships to be forthwith inspected (Art. 7).

Article 7 requires the sanitary authority, on notice being given to them by an officer of Customs, under the order, to forthwith cause the ship in regard to which such notice has been given, to be visited and examined by their medical officer of health for the purpose of ascertaining whether she is infected with cholera.

Power of medical officer of health to examine suspected ships (Art. 8).

Article 8 provides that the medical officer of health,[2] if he have reason to believe that any ship within the jurisdiction or district of the sanitary authority, whether examined by the officer of Customs or not, is infected with cholera, shall, or if she have come from a place infected with cholera, may, visit and examine such ship, for the purpose of ascertaining whether she is so infected; and that the master of such ship shall permit the same to be so visited and examined.

Certificate to be given in case ship is infected (Art. 9).

Article 9 renders it the duty of the medical officer of health, if on making examination (whether under Article 7 or 8) he is of opinion that the ship is infected, to give a certificate in duplicate in the following form, or to the like effect, and to deliver one copy to the master and retain the other or transmit it to the sanitary authority. It also

[1] These are previous regulations of the Local Government Board, made under Section 130 of the Public Health Act, 1875, and which were drawn on similar lines to these regulations.

[2] By an order in Council dated August 26, 1893, every medical officer of health and every deputy medical officer of health may, in the performance of his duties as such, go on board any vessel under or liable to quarantine without being in any way subject to the restraints of quarantine.

requires him to give to the Local Government Board information as to the arrival of the ship and such other particulars as that Board may require.

Certificate.

' day of 189 .

' SANITARY AUTHORITY OF .

'I hereby certify that I have examined the ship of , now lying in the port of [*or detained at*], and that I find that she is infected with Cholera.

'*Medical Officer of Health* [or Medical Practitioner appointed by the Sanitary Authority].'

Infected ships to be taken to mooring place fixed by sanitary authority (Art. 10).

Article 10 requires the master of every ship so certified to be infected with cholera to thereupon moor or anchor her at the place fixed for that purpose under Article 6, and provides that she shall remain there until the requirements of the order have been duly fulfilled.

No person to leave such ships until after examination (Art. 11).

No person may leave any such ship until the examination hereinafter mentioned has been made.

Persons allowed to land to give their names and places of destination (Art. 12).

Article 12, as amended by the order of September 6, 1892, provides that the medical officer of health shall, as soon as possible after any such ship has been certified to be infected with cholera, examine every person on board of the same, and in the case of any person suffering from cholera, or from any illness which the medical officer of health suspects to be cholera, shall certify accordingly ; and that a person who shall not be so certified shall not be permitted to land unless he satisfy the medical officer of health as to his name, place of destination, and address at such place.

The name and address of any such person must forthwith be given by the medical officer of health to the clerk to the sanitary authority, and such clerk must thereupon transmit the same to the local authority of the district in which the place of destination of such person is situate.

In this article the term 'local authority' means any urban or rural sanitary authority; and in the administrative county of London the commissioners of sewers, the vestry under the Metropolis Management Act, 1855, of a parish in Schedule A, and the district board of a district in Schedule B to that Act, as amended by the Metropolis Management Amendment Act, 1885, and the Metropolis Management (Battersea and Westminster) Act, 1887, and the Woolwich Local Board of Health.

How persons found to be suffering from cholera are to be dealt with (Art. 13).

Article 13 provides that every person certified by the medical officer of health to be suffering from cholera shall be removed, if his condition admit of it, to some hospital or other suitable place appointed for that purpose by the sanitary authority ; and that no person so removed shall leave such hospital or place until the medical officer of health shall have certified that such person is free from the said disease.

If any person suffering from cholera cannot be removed, the ship will remain subject, for the purposes of the order, to the control of the medical officer of health ; and the infected person may not be removed from or leave the ship, except with the consent in writing of the medical officer of health.

Persons suspected to be suffering from cholera (Art. 14).

Any person certified by the medical officer of health to be suffering from any illness which such officer suspects may prove to be cholera may either be detained on board the ship for any period not exceeding two days, or be taken to some hospital or other suitable place appointed for that purpose by the sanitary authority, and detained there, for a like period, in order that it may be ascertained whether the illness is or is not cholera. Any such person who, while so detained, is certified by the medical officer of health to be suffering from cholera must be dealt with as provided by Article 13 of the order.

Steps to be taken to prevent spread of infection on board the ship (Art. 15).

The medical officer of health must in the case of every ship certified to be infected give directions, and take such steps as may appear to him to be necessary for preventing the spread of infection, and the master of the ship must forthwith carry into execution such directions as shall be so given to him.

Disposal of dead bodies of persons who have died of cholera (Art. 16).

In the event of any death from cholera taking place on board of such ship while detained under Article 10, the master must as directed by the sanitary authority or the medical officer of health either cause the dead body to be taken out to sea, and committed to the deep, properly loaded to prevent its rising, or deliver it into the charge of the authority for interment; and the authority must thereupon have the same interred.

Destruction and disinfection of infected articles (Art. 17).

The master must cause any articles that may have been soiled with cholera discharges to be destroyed, and the clothing and bedding and other articles of personal use likely to retain infection which have been used by any person who may have suffered from cholera on board such ship, or who, having left such ship, has suffered from cholera during the stay of such ship in any port, to be disinfected or (if necessary) destroyed; and if the master has neglected to do so before the ship arrives in port, he must forthwith, or upon the direction of the sanitary authority or the medical officer of health cause the same to be disinfected or destroyed, as the case may require; and if the master neglects to comply with such direction within a reasonable time the authority must cause the same to be carried into execution.

Disinfection of ships (Art. 18).

The master must cause the ship to be disinfected, and every article therein, other than those last described, which may probably be infected with cholera, to be disinfected or destroyed, according to the directions of the medical officer of health.

Flag to be hoisted by ships infected with cholera (Art. 19).

The master of every ship infected with cholera must, when within three miles of the coast of any part of England or Wales, cause to be hoisted the Commercial Code Signal Q, being a yellow flag under the national ensign, and keep the same displayed during the whole of the time between sunrise and sunset.

Order of September 6, 1892.

The following are the additional regulations made by the order of September 6, 1892:—

Restrictions on landing of passengers in filthy or unwholesome condition, or from ships which have come from cholera-infected places (Art. 2).

Where a ship is not infected with cholera, but has passengers on board who are in a filthy or otherwise unwholesome condition, or has come from a place infected with cholera, the medical officer of health may, if in his opinion it is desirable,[1] with a view to checking the introduction or spread of cholera, give a certificate in duplicate in the

[1] It will be observed that these provisions will only come into operation when the medical officer of health has deemed it desirable, with a view to checking the introduction or spread of cholera, to give the certificate. The medical officer of health will, of course, before giving it, carefully consider all the circumstances of the particular case.

following form or to the like effect; and if he does so, he must deliver one to the master, and retain the other or transmit it to the sanitary authority:

Certificate.

' day of , 189 .

'Sanitary Authority of .

'I hereby certify that I have the examined the ship from now in the port of , and that she has passengers on board in a filthy or otherwise unwholesome condition [*or* has come from a place infected with cholera], and that, in my opinion, it is desirable, with a view to checking the introduction or spread of cholera, that the persons on board the ship should not be allowed to land unless they satisfy me as to their names, places of destination, and addresses at such places.

'(Signed)

'*Medical Officer of Health* [or Medical Practitioner appointed by the Sanitary Authority].'

Art. 3.

When such certificate has been given, no person on board the ship may leave or be allowed to leave the same unless he satisfy the medical officer of health as to his name, place of destination, and address at such place; and such name and address must forthwith be given by the medical officer of health to the clerk to the sanitary authority, and such clerk must thereupon transmit the same to the local authority of the district in which the place of destination of such person is situate.

In this article the term 'local authority' means any urban or rural sanitary authority, and in the administrative county of London any sanitary authority as defined by the Public Health (London) Act, 1891.

Power to require bilge water to be pumped out and fresh water supply provided (Art. 4).

If the medical officer of health have reason to believe that any ship coming or being within the jurisdiction of the sanitary authority is infected with cholera, or has come from a place infected with cholera, he may direct the bilge water to be pumped out before such ship enters any dock or basin; and on the sanitary authority providing a proper supply of water for drinking and cooking purposes for persons on board the ship, he may direct all casks or tanks on board the ship containing water for the use of such persons to be emptied and cleansed, and the master must cause such directions to be carried into effect.

Orders of August 5 and September 13, 1893, with respect to the importation of infected bedding, clothing, and rags.

The foregoing regulations have for their object the prevention of the entry into this country of cholera-infected persons, without due precautions to minimise the risk of the spread of cholera by their means. In addition to these regulations, which, as already mentioned, are still in force, temporary regulations have, from time to time, been made by the Local Government Board under Section 130 of the Public Health Act, 1875, with reference to the importation of rags from places in which cholera has been prevalent. The regulations at present in force dealing with the importation of articles, which might introduce cholera are contained in orders of the Local Government Board dated

Art. 2.

August 5, and September 13, 1893. The former of these orders repealed the orders previously regulating the importation of rags, and provided that from and after August 9, 1893, and until the Local

Government Board should, by order, otherwise direct, no dirty bedding, or disused or filthy clothing, whether belonging to emigrants or otherwise, from France or from any foreign port in Europe north of Dunkirk other than ports of Sweden, Norway, and Denmark, or from any port on the Black Sea or Sea of Azov, whether in Russia, Roumania, Bulgaria, or Turkey, or from any other port of Turkey in Asia should be delivered overside, except for the purpose of disinfection or destruction, nor landed in any port or place in England or Wales, except for the purpose of disinfection or destruction. For the purposes of the order the terms 'bedding' and 'clothing' include such articles when torn up, but do not include rags compressed by hydraulic force transported as wholesale merchandise in bales surrounded by iron bands, and with marks and numbers showing their origin and accepted as such by the Commissioners of Her Majesty's Customs.

Mode of disinfection to be employed (Art. 3).

Any such bedding or clothing delivered overside or landed for the purpose of disinfection may not be taken out of the custody of the officers of Customs until the same shall have been disinfected by and at the cost of the person having the control over the same by means of steam under pressure in such manner as to secure the exposure of every part of every article to a temperature of not less than 212° Fahrenheit, nor until the medical officer of health shall have given a certificate to an officer of Customs as to such disinfection, which certificate shall be in the following form :—

PORT OF .

'I hereby certify that the [*bedding or clothing*] delivered overside or landed at this Port from the ship [*name of ship*] of or from [*port of sailing*] has been disinfected at this Port in accordance with the provisions of Article 3 of the Order of the Local Government Board dated August 5, 1893.

'(Signed) , *Medical Officer of Health.*

'Date 189 .'

Expenses of Customs officers (Art. 4).

Any expenses incurred by the Commissioners of Her Majesty's Customs in watching articles delivered overside or landed for the purpose of disinfection or destruction under this order must be defrayed by the person having control over the same.

Articles not disinfected to be destroyed by owners (Art. 5).

If any such bedding or clothing so delivered overside or landed for the purpose of disinfection shall not, within a period of forty-eight hours after being so delivered or landed, be disinfected and certified as aforesaid, such bedding or clothing will, within twenty-four hours after the expiration of such period, be destroyed by the person having control over the same, with such precautions as may be directed by the medical officer of health of the sanitary authority within whose jurisdiction or district the same may be found.

Art. 6.

Any such bedding or clothing so delivered overside or landed for the purpose of destruction must, within twenty-four hours after being so delivered or landed, be destroyed by the person having control over the same, with such precautions as may be directed by the medical officer of health of such sanitary authority as aforesaid.

Otherwise they must be destroyed by sanitary authority at cost of owner (Art. 7).

If the person having control over any bedding or clothing so delivered overside or landed for the purpose of disinfection or destruction shall make default in complying with the requirements of Article 5 or Article 6 of this order, such bedding or clothing must be forthwith destroyed, at the cost of such person, by such sanitary authority as

aforesaid, or by or under the direction of the medical officer of health of such sanitary authority acting on their behalf.

Art. 8. All masters of ships and other persons having control over any bedding or clothing prohibited under this order from being delivered overside or landed as aforesaid are required to obey these regulations.

Art. 9. All officers of Customs are empowered to prevent the delivery overside or landing of bedding or clothing in contravention of this order.

Art. 10. It will be the duty of the sanitary authority to take proceedings against masters of ships or other persons having control over any such bedding or clothing who wilfully neglect or refuse to obey or carry out, or obstruct the execution of any of these regulations.

Power of Local Government Board to make regulations in case of formidable epidemics (Public Health Act, 1875, Sec. 134).

In addition to the regulations which the Local Government Board are empowered to make under Section 130 of the Public Health Act, they may make, and from time to time alter and revoke, regulations under Section 134 of the Act for all or any of the following purposes, whenever any part of England appears to be threatened with or is affected by any formidable epidemic, endemic, or infectious disease, viz.—(1) For the speedy interment of the dead; (2) for house-to-house visitation; and (3) for the provision of medical aid and accommodation, for the promotion of cleansing, ventilation, and disinfection, and for guarding against the spread of disease; and they may by order declare all or any of the regulations so made to be in force within the whole or any part or parts of the district of any sanitary authority, and to apply to any vessels, whether on inland waters or on arms or parts of the sea, within the jurisdiction of the Lord High Admiral of the United Kingdom or the commissioners for executing the office of Lord High Admiral for the time being for the period in such order mentioned; and they may by any subsequent order abridge or extend such period.

Publication of regulations and orders (Sec. 135).

All regulations and orders made under this enactment must be published in the 'London Gazette,' and such publication will be conclusive evidence thereof for all purposes.

Sanitary authority to see to the execution of the regulations (Sec. 136).

The sanitary authority of any district within which or part of which any regulations issued under the above provisions are in force must superintend and see to the execution thereof, and appoint and pay such medical or other officers or persons, and do and provide all such acts, matters, and things, as may be necessary for mitigating any such disease, or for superintending or aiding in the execution of such regulations, or for executing the same, as the case may require. And the sanitary authority may also from time to time direct any prosecution or legal proceedings in respect of the wilful violation or neglect of any such regulation.

Power of entry (Sec. 137).

The sanitary authority and their officers will have power of entry on any premises or vessel for the purpose of executing or superintending the execution of these regulations.

Charges payable to poor law medical officers and other medical practitioners for services on board vessels (Sec. 138).

Whenever, in compliance with any such regulation, any poor law medical officer performs any medical service on board any vessel, he will be entitled to charge extra for such service, at the general rate of his allowance for services for the union or place for which he is appointed; and such charges will be payable by the captain of such vessel on behalf of the owners thereof, together with any reasonable expenses for the treatment of the sick. Where such services are rendered by any medical practitioner who is not a poor law medical officer he will be entitled to charges for any service rendered on board,

with extra remuneration on account of distance, at the same rate as those which he is in the habit of receiving from private patients of the class of those attended and treated on ship board, to be paid as aforesaid. Any dispute as to these charges when they do not exceed 20*l.* is to be settled by a court of summary jurisdiction.

Power to require two or more authorities to act together (Sec. 139).

The Local Government Board may, if they think fit, by order authorise or require any two or more sanitary authorities to act together for the purposes of the above provisions relating to prevention of epidemic diseases, and may prescribe the mode of such joint action and of defraying the cost thereof.

Penalty for violating or obstructing the execution of the regulations (Sec. 140).

Any person who wilfully violates any regulations issued by the Local Government Board under the above powers, or who wilfully obstructs any person acting under the authority or in the execution of any such regulation will be liable to a penalty not exceeding 5*l.*

Last occasion on which regulations were made under these powers.

The only occasion on which the Local Government Board have found it necessary to prescribe regulations under the above sections, was in the autumn of 1893, when the urban sanitary districts of Grimsby and Cleethorpe and the port sanitary district of Grimsby were threatened with cholera. On that occasion they issued two orders dated September 1 and 6, 1893, providing (amongst other things) for daily meetings of the local authorities or their committees; the appointment of medical visitors and assistants to make a house-to-house visitation in the parts of the district inhabited by the working classes, or attacked by the disease; the opening of dispensaries with adequate supplies of medicines, medical appliances, and disinfectants; arrangements for the speedy burial of the dead, and the furnishing of daily returns by the medical officer of health to the Local Government Board. These orders were revoked on January 8, 1894, on the cessation of the epidemic; but as similar regulations would probably be put in force if cholera were again to make its appearance in this country, it may be well to give some account of their contents.

Grimsby and Cleethorpe orders, September 1 and 6, 1893.

Order of September 1, 1893. Daily meetings of local authority or committees.

The first of these orders required the local authorities to forthwith make arrangements for meeting daily, or according to the exigencies of the district, to appoint one or more committees of their body to meet daily for the purpose of carrying the regulations into effect, and to see that the same were carried into effect so far as circumstances required. Each committee so appointed had all such powers of the local authority within the part of the district, or in relation to the special matters entrusted to them (including the power of incurring expenses and of appointing officers and of taking legal proceedings, but not the power of levying rates or borrowing money), as might be necessary for the purposes of the regulations.

Duties of medical officer of health (Art. 1).

The medical officer of health was to advise the local authority on all matters concerning the carrying of the regulations into effect, and generally to superintend the carrying out of the same.

Medical visitors (Art. 2).

In each district, or, if the quantity of work to be done rendered it desirable to sub-divide the district, then in each of such sub-divisions, a legally qualified medical practitioner, called the medical visitor, was to be put in charge of the district or sub-division for the purposes of the regulations, under the superintendence of the medical officer of health; and each such medical visitor was to be provided with all needful medical assistants and such other assistants as might be required for carrying the regulations into effect, and every poor-law district medical officer who was not appointed a medical visitor was,

ex-officio, to be a medical assistant for his district or for so much thereof as was within the district of the local authority, and was to be entitled to reasonable payment from the local authority for his services.

Duties of medical visitors (Art. 3).

The medical visitor, or one of his assistants, was required, at least once daily, to visit those parts of the district or sub-division which were inhabited by the poorer classes, or wherein the disease was present, and there to inquire at every house [1] as to the existence of cholera or diarrhœa, and to enter in a report book to be kept by him for the purpose the facts as to all cases he might meet with; and, without delay, to give, or take the proper steps for causing to be given, all necessary medical assistance to the sick. The medical visitor or assistant was, when visiting the part assigned to him, to be provided with medicines for immediate administration in urgent cases, and was to be held to be in medical charge (which term was to include giving directions as to preventing the spread of the disease) of all cases of cholera or diarrhœa with which he might meet, unless or until other provision for their medical attendance were made. He was also, so far as possible, when visiting such part, to investigate whether any conditions dangerous to health existed therein, and in particular whether there was any accumulation of excremental or other filth, and whether any unwholesome water supply was in use.

Reports by medical visitors to medical officer of health (Art. 4).

Each medical visitor was required, by transmitting the report books kept by him or his assistants, or in some other way, to report daily to the medical officer of health for the information of the local authority, the result of his own and his assistants' inquiries with respect to cases of disease; and also to report all unwholesome conditions which he or any of his assistants might have discovered; and to make such other suggestions as to the state of the district or sub-division as he might deem advisable.

Action to be taken on reports of medical visitors (Art. 5).

Immediately on the receipt of any such report from a medical visitor the local authority were to see to all unwholesome conditions mentioned therein being remedied, so far as possible; such measures of cleansing and limewashing as could not otherwise be speedily effected being carried out at the cost of the local authority by persons employed by them; and the provisions of the Public Health Acts being put in exercise as regards other matters that could be dealt with thereunder, or as regards matters which were under the control of some other authority, notice being given to the person or body having power to deal with the same.

Communications with relieving officers (Art. 6).

Each medical visitor was, when needful for the purposes of the regulations, to communicate to the relieving officer any case of destitution requiring relief of which he might have become aware.

Provision of dispensaries (Art. 7).

The local authority, under the advice of the medical officer of health, were required to provide a sufficient number of dispensaries, to be open night and day, at convenient places within the district, with an adequate supply of such medicines, medical appliances and disinfectants as the medical officer of health should recommend, and with a legally qualified medical practitioner or skilled assistant always in attendance at each; and such medicines, medical appliances, and disinfectants were to be dispensed without charge to persons bringing orders for the same from a medical visitor or his assistant, and to any

[1] For the purposes of the order 'house' included any ship or boat, and 'cholera' included choleraic diarrhœa.

other persons needing immediate medical treatment. The names and addresses of such persons were to be sent to the medical visitor of the place in which they resided.

Medical assistance, &c., to be provided where necessary (Art. 8).

In every case of cholera or diarrhœa, where the patient was not otherwise under medical care and treatment the local authority were, with the utmost expedition, to cause medical assistance to be rendered, as well as to provide such aid and comfort, nourishment and accommodation, as the circumstances of the case might require.

Provision of nurses (Art. 9).

The local authority were also to provide competent nurses to aid every medical visitor in his attendance upon the patients suffering from the disease.

Hospital accommodation (Art. 10).

If fit and proper hospital accommodation for patients had not already been provided, the local authority were with all practicable despatch, to provide such accommodation, and to cause the same to be provided with such furniture, appliances, medicines, and other things as might be required to render the same ready for use, together with the necessary ambulances and litters for conveying the sick, and were also to appoint a legally qualified medical practitioner, with or without assistants, and with the requisite nurses and attendants, as the case might require, to attend to the same: and the local authority and any other local authority, and the Board of Guardians of any Union or separate parish, might co-operate in providing hospital accommodation, maintenance, and treatment for cholera patients, and in removing such patients to hospital.

Houses of refuge (Art. 11).

If the medical officer of health reported that houses of refuge for healthy persons living in infected houses ought to be established for the district, the local authority were, with as much despatch as practicable, to provide such houses of refuge and furnish them with all needful comforts and appliances, and place them when occupied under continuous medical observation. If they removed thereto any or all of the healthy persons living in an infected house, they might, if necessary, provide for the maintenance of such persons therein.

Removal to hospitals and houses of refuge (Art. 12).

If the medical officer of health or a medical visitor reported that in any dwelling where there was a case of cholera the sick could not be properly separated from the healthy and that any person suffering from cholera should be removed to hospital, such person was to be removed accordingly to a hospital for cholera patients. If the medical officer of health or the medical visitor recommended that the sick person or persons should not be removed, but that the healthy should be removed, the local authority were forthwith to cause them to be removed to a house of refuge or to such other sufficient accommodation as the local authority might provide for them.

Disinfectants (Art. 13).

The local authority were required, for use in or about dwellings where cholera or diarrhœa existed, to provide proper disinfectants in sufficient quantities for the purpose of disinfecting the discharges from the sick, and the utensils and water-closets or other closets or privies in which such discharges might have been received, and for effecting any other disinfection proper to be done in or about such dwellings, and the medical visitor or assistant or other person in attendance on the sick, was to give full and particular instructions as to the best method of using such disinfectants, and so far as practicable was to see to the same being so used.

The local authority were also to provide proper means for removing for the purpose of disinfection and for disinfecting articles of clothing,

Disinfection and destruction of infected clothing, bedding and furniture (Art. 14).

bedding and furniture, and to cause every such article which had been exposed to choleraic infection to be disinfected; or to cause the same to be forthwith destroyed; and were required within a reasonable time to replace all such articles, or to pay the reasonable value to the owner.

Precautions for ensuring purity of public water supplies (Art. 15).

Every local authority, company or person owning or having possession of any waterworks for the public supply of water were required to cause the sources of water-supply, filter-beds, reservoirs, cisterns, pipes, pumps, and other apparatus belonging thereto, to be carefully examined, cleansed and purified, and other necessary measures to be taken, so that the water might be supplied without impurity. The local authority were at their first meeting after the receipt of this order to direct a copy of this regulation to be sent to each such company or person supplying water within their district.

Prevention of use of polluted or dangerous water supplies (Art. 16).

If it appeared to the local authority that any drinking water used in the district was polluted, or in immediate danger of becoming polluted, they were at once (in order to provide for the immediate necessities of the consumers of such water) to take measures to provide wholesome water in its stead, and to prevent, as far as possible, the further use of the existing supply. For this latter purpose they were empowered to close any public or private wells, and to prevent the use of water from any particular source.

Arrangements for speedy interment of the dead (Art. 17).

The local authority were to make due arrangements with undertakers, and with the authorities of churchyards, burial grounds, and cemeteries, and otherwise, so that interment or other proper disposal of the body might speedily take place in the cases of deaths arising from cholera; and were, when informed of any such deaths, to cause the corpse to be disposed of with the utmost despatch, and with such precautions as the medical officer of health might deem necessary.

Prohibition of 'waking' (Art. 18).

Where any death occurred from cholera, no collection of persons were to assemble in the room where the corpse was, and no 'waking' of the dead was to be allowed.

Removal of corpse from inhabited rooms (Art. 19).

The local authority were to cause the immediate removal from any room inhabited by living persons of the corpse of every person dying of cholera, and to provide for the proper custody of such corpse.

Daily return by medical officer of health to Local Government Board, (Art. 20).

The medical officer of health was required daily to send by post to the Local Government Board a return of the number of cases of cholera which during the previous day might have come under the cognizance of the local authority, and of the number of recoveries, and the number of deaths, with such other particulars as the Board might from time to time require. A form of return was prescribed by the order.

Publication of notices and instructions by placards, handbills, &c. (Art. 21).

The local authority were required from time to time, as they might find expedient, or as might be directed by the Local Government Board, to issue, publish, and distribute in placards, hand-bills, or otherwise, such admonitory notices as to sanitary conditions within the district, and such advice, directions, and instructions with regard to persons attacked with cholera, and such information as to the arrangements made for affording medical or other assistance in the district, as might appear requisite.

Order of September 6, 1893.

In order to secure the notification of every case of cholera and choleraic diarrhœa, whether or not the Infectious Diseases Notification Act, 1889, was in force in the district, the above order was, on September 6, 1893, amended by a further order, which provided that in

any of the districts to which the former order applied, and in which that Act was not in force, the persons mentioned in Section 3 of the Act and the local authority should have the same powers and duties in relation to the notification of cases of cholera as they would have under the Act if the same had been put in force as aforesaid, and choleraic diarrhœa had been an infectious disease to which the Act applied; and that in any of the said districts where the Notification Act was in force, the persons mentioned in Section 3 of the Act and the local authority should have the same duties in relation to the notification of cases of choleraic diarrhœa as they would have under the Act if choleraic diarrhœa had been an infectious disease to which the Act applied. This order further required the sanitary authority to forthwith direct circular letters to be sent to all legally qualified medical practitioners in the district, informing them of their duties under this regulation.

Borrowing powers of sanitary authority for the purposes of these regulations (Epidemic and other Diseases Prevention Act, 1883, Sec. 2).

Section 2 of the Epidemic and other Diseases Prevention Act, 1883, has provided that the purposes named in the regulations which the Local Government Board are empowered to make under Section 134 shall be deemed to be purposes for which sanitary authorities may borrow money, and that sanitary authorities may borrow, and the Public Works Loan Commissioners may lend money to such authorities, as if such purposes were 'works,' for which loans may be granted under the Public Health Act; and that such loans may be made forthwith, and without any preliminary public inquiry, if it appear to the Local Government Board to be desirable in order to the prompt and effective execution of such regulations.

XXIII. MORTUARIES AND CEMETERIES

Powers and duties of sanitary authorities as regards mortuaries (Public Health Act, 1875, Sec. 141).

As far back as 1848 local boards were empowered to provide mortuaries. But it was not until the passing of the Public Health Act, 1875, that every sanitary authority, whether urban or rural, was not only empowered but required, if called upon to do so by the Local Government Board, to provide a mortuary. This duty might no doubt be enforced by mandamus, if necessary.

Reference has been made already under the head of 'Infectious Diseases and Hospitals' (p. 171) to the powers of justices to order that the body of any person who has died of infectious disease, if it be retained in a room in which persons live or sleep, shall be removed, at the cost of the sanitary authority, to any mortuary provided by the authority, and buried within a time limited by the order. The same powers are given by the Act with reference to any dead body which is in such a state as to endanger the health of the inmates of the same house or room if retained in such house or room.

Power of justices to order removal of dead body to mortuary in certain cases (Sec. 142).

Bye-laws as to management and charges for mortuaries (Sec. 141).

Sanitary authorities may make bye-laws[1] with respect to the management and charges for the use of any mortuary provided by them. They may also provide for the decent and economical interment at charges to be fixed by such bye-laws of any dead body, which may be received into a mortuary.

The Local Government Board have issued a series of model bye-laws with respect to the management of a mortuary. They are few in number, and are designed with the object of securing the removal of

[1] As regards the making, publication, and enforcement of these bye-laws and their confirmation by the Local Government Board see p. 33.

corpses from the mortuary for burial within specified periods,[1] from the dates of death, the prevention of misbehaviour in the mortuary, and the removal of empty shells from the mortuary without delay. In the circular addressed to sanitary authorities on the occasion of the issue of these bye-laws, the authorities were advised to rely upon good administrative arrangements, rather than upon bye-laws for the proper management of their mortuaries, and several valuable suggestions were given as to the nature of these arrangements, and the site and structure of the mortuary. A model plan for a mortuary for a town of 100,000 inhabitants has also been published by the Local Government Board for the use of sanitary authorities.

Suggestions of Local Government Board with respect to mortuaries. Site and arrangement of buildings.

The suggestions above referred to deal first with the site and structure of the mortuary, and secondly with administrative arrangements. In the choice of a site the Local Government Board recommend that care should be taken that the buildings to be erected thereon, which should be substantial structures of brick or stone, shall, as far as practicable, be isolated and unobtrusive. And it is suggested that it may be desirable to place them in such a position and manner as to admit of their being concealed from public view until the entrance gate of the premises has been passed.

Chambers for reception of corpses to be on ground floor. Waiting-room, caretaker's house, and shed for shells to be provided. Requisites of chamber for reception of the dead.

Every chamber intended for the reception of corpses should, in the opinion of the Board, be on the ground or basement floor, and in addition to these chambers these premises should, if possible, comprise—(*a*) a waiting-room for visitors and for the use of mourners assembling there for funeral purposes; (*b*) a caretaker's dwelling-house; and (*c*) a shed or out-house for the keeping of shells or other necessary appliances.

In the construction of every chamber intended for the reception of the dead care should be taken to ensure convenience, decency, cleanliness, and coolness. The chamber should be lofty, and the area of its floor sufficient to allow freedom of movement between the slabs or tables on which the dead are to be placed. There should be a ceiling to it, or if it be open to the roof there should be a double roof, with a space of at least eight inches between the outer and inner covering, or with the addition of an intervening layer of felt. Louvres or air-gratings under the eaves should be provided for ventilation; and it should, if practicable, be lighted by windows on the north side. If it be necessary to place the windows on any other side, external louvre blinds should be provided for them. The floor should be paved evenly and closely, a uniform cement floor being the best. Water should be laid on so as to be drawn from a tap within the chamber. Shelves placed round the interior of the chamber, and tables occupying any part of its area, should be made of slate slabs. If stone is used, it should be smoothed on the upper surface. The ceiling and internal surface of the walls should be whitewashed, and the outside of the roof whitened. The entrance to the chamber should be direct, without the intervention of any passage.

Two chambers at least to be provided.

The number of chambers should be at least two, so that one may be appropriated exclusively for the bodies of persons who have died of infectious disease, and the other for the bodies of persons whose death has been due to other causes. It is suggested that these chambers

[1] The bye-laws contemplate that the corpses of persons who have died from infectious diseases shall be buried within a shorter period from the date of death than other corpses.

should be placed as far apart as practicable, so that persons visiting the chamber used for the reception of the bodies of those who have died of non-infectious disease may have no cause to fear infection.

Administrative arrangements. Reception of bodies at all hours.

As regards the administrative arrangements of the mortuary, the Local Government Board recommend that no obstacle or difficulty should be placed in the way of receiving a body at any hour of the day or night. They are of opinion that, to obviate unnecessary applications for reception at night, it will probably be found sufficient to affix to the entrance gate a notice requesting persons to abstain, except in cases of emergency, from applying for the admission of bodies during certain specified hours of the night.

Caretaker to reside on premises. His duties.

The Board also suggest that a caretaker should reside on the premises, and that his duties should comprise the general management of the mortuary, the maintenance of cleanliness, decency, and good order, and the keeping of such books or registers as the regulations of the sanitary authority may prescribe. It is recommended that the caretaker should ascertain and record, in the case of every corpse received upon the premises, the Christian name and surname, the sex, age, and cause of death of the deceased, the number of house and name of street, or other description of the place, whence the body has been brought to the mortuary, the name and address of the person by whose order it has been brought thither, and the date of the removal of the body for burial. But it is to be clearly understood by the caretaker that he will not be justified in refusing to admit a corpse on the ground that these particulars cannot be given at the time when the application for admission is made to him.

Shells to be provided and kept in mortuary.

The Local Government Board further recommend that a sufficient number of shells of different sizes should be kept at the mortuary, in a shed or other suitable place, in charge of the caretaker, and that he should be empowered to lend them to undertakers or other responsible persons for the conveyance of bodies to the mortuary. These shells should be constructed of strong wood, painted externally, the interior of each and the inner surface of its cover being lined with tinned copper. Every shell after being used, and before being deposited for storage, should be thoroughly cleansed by the caretaker. No dead body should be received upon the premises unless it is enclosed in a shell or coffin.

Dead bodies to be enclosed in shells or coffins.

Power to provide places for post-mortem examinations (Sec. 143).

In addition to mortuaries, sanitary authorities may provide and maintain proper places (otherwise[1] than at a workhouse or at a mortuary) for the reception of dead bodies during the time required to conduct any post-mortem examination ordered by a coroner or other constituted authority, and may make regulations[2] with respect to the management of such places; and where any such place has been provided a coroner or other constituted authority may order the removal of the body to and from such place for carrying out such post-mortem examination.

Powers and duties of sanitary authorities as regards mortuaries extended to cemeteries (Public Health (Interments) Act, 1879, Sec. 2).

By an effective and ingenious piece of legislative machinery, the Public Health (Interments) Act, 1879, extended the provisions of the Public Health Act, 1875, as to mortuaries, which in that Act were described as places for the reception of the dead before interment, to

[1] It is apparently considered undesirable that post-mortem examinations should take place either in workhouses or mortuaries.

[2] The provisions of the Public Health Act, 1875, relating to bye-laws will not apply to these regulations; consequently the regulations will not need to be confirmed by the Local Government Board.

cemeteries, or places for the interment of the dead; and provided that the purposes of the last-mentioned Act should include the acquisition, construction, and maintenance of cemeteries. It thus not only empowered sanitary authorities to provide a cemetery, but imposed on them the obligation of making such provision in the event of their being required by the Local Government Board to do so. The Act is to be construed as one with the Public Health Act, 1875, and it in express terms authorises sanitary authorities to acquire, construct, and maintain cemeteries, either wholly or partly within or without their districts, subject as to works without their districts for this purpose to the provisions [1] of the Public Health Act, 1875, as to sewage works by a sanitary authority without its district. It also empowers them to accept a donation of land for the purpose of a cemetery, and a donation of money or other property for enabling them to acquire, construct, or maintain a cemetery.

Incorporation of Cemeteries Clauses Act, 1847.

It incorporates the Cemeteries Clauses Act, 1847, which, as stated in its title, is an Act consolidating in one Act the provisions usually contained in Acts authorising the making of cemeteries.

It would be altogether beyond the scope of the present work to set out the contents of the sixty-nine sections of the last-mentioned Act. There are, however, some of them to which it seems desirable to draw attention, as they may exercise a material influence in deciding sanitary authorities whether or not it will be desirable that the cemetery should be provided under the Public Health Acts or under the Burial Acts (as to which, see the notes below, and also pages 195 and 196).

Cemetery not to be within a certain distance of houses (Sec. 10).

Section 10 provides that no part of the cemetery shall be constructed nearer to any dwelling-house than the prescribed distance; [2] or, if no distance is prescribed, 200 [3] yards, except with the consent in writing of the owner, lessee, and occupier of such house.

Cemetery to be enclosed and fenced (Sec. 15).

Section 15 requires every part of the cemetery to be enclosed by walls or other sufficient fences of the prescribed [4] materials and dimensions; and if no materials or dimensions be prescribed, by substantial walls or iron railings of the height of eight feet at least.

Part of the cemetery may be consecrated (Sec. 23).

[5] The bishop of the diocese, on the application of the sanitary authority, may consecrate any portion of the cemetery set apart for the burial of the dead, according to the rites of the Church of England; and the part which is so consecrated may only be used for burials according to the rites of the Church of England (Section 23).

Consecrated ground to be defined (Sec. 24).

The sanitary authority must define by suitable marks the consecrated and unconsecrated portions of the cemetery (Section 24).

The sanitary authority must build [6] within the consecrated part of

[1] As to these see above, pp. 18 and 19.

[2] No distance being prescribed in this case, the 200-yard limit applies.

[3] The corresponding distance under the Burial Acts is 100 yards (see p. 239). Burial boards have therefore an advantage over sanitary authorities in this respect, so far as regards the selection of a site for the burial ground.

[4] No materials or dimensions being prescribed as to the fencing of the cemetery, when provided by a sanitary authority, the walls or iron railings must in these cases be at least eight feet high. No similar requirement is imposed on burial boards by the Burial Acts.

[5] The provisions of this and the following section are substantially the same as those contained in the Burial Acts with reference to burial grounds provided by burial boards, as to which see p. 240.

[6] No similar obligation is imposed on burial boards by the Burial Acts, the building of a chapel in these cases being optional and not compulsory (see Section 30 of the Burial Act, 1852, p. 240).

the cemetery, and according to a plan approved of by the bishop of the diocese, a chapel for the performance of the burial service according to the rites of the Church of England (Section 25).

A chapel to be built on the consecrated ground (Sec. 25).

The sanitary authority must from time to time, with the approval of the bishop of the diocese, appoint a clerk in holy orders [1] of the Church of England, to officiate as chaplain in the consecrated part of the cemetery; and allow him a stipend to be approved by the bishop (Sections 27 and 30).

And chaplain to be appointed (Secs. 27 and 30).

The sanitary authority may set apart the whole or a portion of that part of the cemetery which is not set apart for burials according to the rites of the Church of England, as a place of burial for the bodies of persons not being members of the Church of England; and may allow such bodies to be buried therein under such regulations as the sanitary authority appoint (Section 35). They may also allow in any chapel [2] built within the unconsecrated part of the cemetery, a burial service to be performed according to the rites of any Church or congregation other than the Church of England, by any minister of such other Church or congregation, duly authorised by law to officiate in such Church or congregation, or recognised as such by the religious community or society to which he belongs (Section 36).

Setting apart of unconsecrated part of cemetery (Sec. 35).

Burial service to be performed in dissenting chapels (Sec. 36).

Assuming that a cemetery is required in any locality, the first question for the sanitary authority to decide will be, whether it can better be provided by them under the Public Health (Interments) Act, 1879, or by a burial board [3] under the Burial Acts. For the consideration of this question, some knowledge of the Burial Acts [4] is necessary. The notes to the foregoing sections indicate some of the points of difference between the statutory powers of a sanitary authority and those of a burial board, in connection with the provision of burial grounds; but there are many others, which have an important bearing on the question, and although in some of the matters above referred to the balance of advantage may be on the side of the burial board, yet this is by no means the case in every respect. For example, a burial board can obtain no compulsory powers of purchase for the purposes of the Burial Acts, whereas by means of a provisional order these powers may be obtained by a sanitary authority. Nor is a burial board likely, as a general rule, to have at its disposal as efficient a staff of officers and advisers as a sanitary authority. Another question, which not unfrequently is the most important of all, is whether the area for which the cemetery is required is wholly comprised within the sanitary district, or is conterminous with any con-

Whether cemetery should be provided by sanitary authority or by burial board.

[1] Where the burial ground is provided by a burial board under the Burial Acts, no chaplain is appointed, the duties being performed by the incumbent or minister of the parish by himself or his curate, or by such duly qualified person as he may authorise. (See Section 32 of the Burial Act, 1852, p. 241.)

[2] Where the burial ground is provided by a burial board under the Burial Acts, it would appear that a chapel must be built on the unconsecrated part, if a chapel is built on the consecrated part, of the burial ground, unless the Secretary of State, on the representation of not less than three-fourths of the members of the vestry, signifies his opinion to the burial board that the building of the chapel is undesirable and unnecessary (Burial Acts Amendment Act, 1855, Section 14; as to which see p. 241).

[3] In many cases the urban sanitary authority is a burial board, either having been so constituted by Order in Council or in consequence of a burial board having transferred its powers to it, or by reason of its having become a burial board at the option of the vestry of one of the parishes included in the urban sanitary district (see p. 237).

[4] As to these Acts see pp. 232 to 245.

tributory place[1] therein, or with an area[2] for which a burial board may be constituted. It is therefore impossible to lay down any general rule, whether or not it is better to proceed in providing a cemetery under the Burial Acts or under the Public Health Acts.

Where it is the duty of a sanitary authority to provide a cemetery.

In some cases where it might be better if the cemetery were provided under the Burial Acts, it may nevertheless become necessary for the sanitary authority to provide it under the Public Health Acts. For there is no legislative machinery by which the inhabitants of any locality can be compelled to establish a burial board, and to provide a burial ground under the Burial Acts; whereas, as has been already pointed out,[3] a sanitary authority may be required by the Local Government Board to provide a cemetery.

In a circular addressed to sanitary authorities on August 19, 1879, within a month after the passing of the Public Health (Interments) Act, 1879, the views of that Board as to the duties of sanitary authorities under the Act are thus explained: 'The Legislature has not specified the cases in which it is incumbent upon the sanitary authority to give effect to the provisions of the new statute; but seeing that it is incorporated with the Public Health Act, there can be no doubt that wherever, in the interests of the public health, it is necessary that a cemetery should be provided in any locality, the Legislature contemplated that the local authority would exercise the important powers now conferred upon them.'

The following may be referred to as circumstances under which it will be incumbent upon the sanitary authority to take action:—

(1) Where, in any burial ground which remains in use, there is not proper space for burial, and no other suitable burial ground has been provided:

(2) Where the continuance in use of any burial ground (notwithstanding that there may be such space) is by reason of its situation in relation to the water supply of the locality, or by reason of any circumstances whatsoever, injurious to the public health:

(3) Where for the protection of the public health it is expedient to discontinue burial in a particular town, village, or place, within certain limits.

There are other circumstances which might render it necessary or expedient that a cemetery should be provided, such as inconvenience of access from the populous parts of the district to the existing burial ground, or the nature of the site, or the character of the subsoil.

To the above circumstances may be added the case where, upon the representation of the Secretary of State, an Order in Council[4] has been made for the discontinuance of burials in the existing burial grounds, either wholly or subject to any exceptions or qualifications.

In the circular above referred to, the Local Government Board recommend that 'with a view of enabling the authority to determine whether on sanitary grounds it is necessary or desirable that a ceme-

[1] As to what constitutes a contributory place see p. 28. Where a rural sanitary authority provides a cemetery for any contributory place it will be necessary to obtain an order of the Local Government Board declaring the expenditure on the cemetery to be special expenses, so that the charge may be borne by the contributory place only.

[2] The ordinary area for which a burial board is appointed is the poor-law parish (see p. 235). Joint burial boards may, however, be appointed for more than one parish.

[3] Page 194.

[4] As to these orders see pp. 232 to 235.

tery should be provided for all or any part of their district, the medical officers of health should be instructed to report upon the state of the several burial grounds within the area subject to their jurisdiction.' This is evidently a matter as to which it is desirable that a sanitary authority should be fully informed.

Power to make bye laws as to cemeteries.

The application to cemetries of Section 141 of the Public Health Act, 1875, enables sanitary authorities to make bye-laws [1] with respect to the management and charges for the use of any cemetery established by them, and in this manner to provide for the orderly conduct of all persons within its limits, for the regulation of graves, and for the payment of reasonable fees for interments therein.

For the guidance of sanitary authorities, the Local Government Board have issued a series of model bye-laws with respect to the management of cemeteries. This series, with an accompanying memorandum by the Board on the sanitary requirements of cemeteries, and the regulations issued by the Secretary of State for burial grounds provided under the Burial Acts, may be obtained from the Queen's printers. The regulations of the Secretary of State will be found on pages 243 and 244.

XXIV. DISUSED BURIAL GROUNDS

The powers and duties under the Burial Acts of vestries, churchwardens, and burial boards, as regards discontinued burial grounds and churchyards, will be found on pages 244 and 245. Other powers and duties as regards these places are by other Acts conferred and imposed on sanitary authorities; and it is necessary here to draw attention to them. It will be convenient in the first instance to set out the special provisions on this subject relating to urban sanitary authorities, which have been constituted burial boards.[2]

Powers and duties of urban authorities constituted burial boards as regards fencing, &c., of disused burial grounds and maintaining them in proper sanitary condition (Local Government Act, 1858, Amendment Act, 1861, Sec. 21).

Section 21 of the Local Government Act, 1858, Amendment Act, 1861, as re-enacted by Section 343 of the Public Health Act, 1875, provides that every such urban authority *may* from time to time repair and uphold the fences surrounding any burial ground, which has been discontinued as such within their jurisdiction, or take down such fences and substitute others in lieu thereof; and *shall* from time to time take the necessary steps for preventing the desecration of such burial ground, and placing it in a proper sanitary condition.

The Disused Burial Grounds Act, 1884.

Scandals having arisen in several places from the use of discontinued burial grounds for building sites, the Disused Burial Grounds Act, 1884, provided that it should not be lawful to erect any buildings upon any of the disused burial grounds to which the Act applied, except for the purpose of enlarging a church, chapel, meeting-house, or other place of worship. The operation of this Act was subsequently extended by the Open Spaces Act, 1887, by an enlargement of the definitions of 'disused burial ground' and 'building.' The effect of these extensions is that it is no longer lawful to erect any building, temporary or moveable, except for the purposes above mentioned, on any burial ground, which is no longer used for interments, and which has not been sold or disposed of under the authority of any Act of

Open Spaces Act, 1887.

[1] As regards the making, publication, and enforcement of these bye-laws, and their confirmation by the Local Government Board, see note 2, p. 33.

[2] As to the circumstances in which an urban sanitary authority may be constituted a burial board, see p. 195.

Parliament, unless a faculty for the erection of such building had been obtained before the passing of the Disused Burial Grounds Act, 1884.

The Open Spaces Act, 1887, has also given facilities for the acquisition, maintenance, and regulation of disused burial grounds by the sanitary authority of every urban district, and of every rural district in respect of which the sanitary authority has been invested with the powers of the Act by an order of the Local Government Board, by extending to such districts, with amendments, the provisions of the Metropolitan Open Spaces Acts,[1] 1877 and 1881, and conferring on the sanitary authority the same powers as belong to the London County Council under those Acts. These provisions enable the sanitary authority to acquire by agreement, and for valuable or nominal consideration by way of payment in gross, or of rent, or otherwise, or without any consideration, and also enable the owner to convey to the authority any churchyard, cemetery, or burial ground, whether consecrated or not, which is no longer used for interments, for the purpose of giving the public access thereto, and preserving the same as an open space accessible to the public, and under the control of the sanitary authority, for the purpose of improving and laying out the same.

Metropolitan Open Spaces Act, 1881 (Secs. 4 and 5).

The playing of sports or games must not be allowed in these grounds when acquired, unless in the case of consecrated grounds the bishop by a licence or faculty, and in the case of unconsecrated ground the body from which it has been acquired, have expressly sanctioned any such use of the ground. In giving their sanction they may specify any conditions as to the extent or manner of such use.

Sports and games prohibited in burial grounds acquired under the Act, except in certain cases (Sec. 2).

At least three months before any tombstone or monument is moved, statements must be prepared and deposited with the clerk of the sanitary authority, sufficiently describing the tombstones or monuments on the ground by the names and dates appearing thereon; and advertisements must be published three times at least in the local papers, and notices sent to the relatives of the persons whose names appear on the tombstones or monuments explaining what is proposed to be done.

Provisions as to removal of tombstones and monuments (Sec. 3).

The sanitary authority may, with reference to any churchyard, cemetery, or burial ground in or over which it has acquired any estate, interest, or control under the provisions of the Act, make bye-laws for the regulation thereof, and of the days and times of admission thereto, and the preservation of order and prevention of nuisances therein; and may, by such bye-laws, impose penalties for the infringement thereof, and provide for the removal of any person infringing any such bye-law by any officer of the sanitary authority or police constable.

Bye-laws for regulation of burial grounds acquired under the Act (Sec. 4). Metropolitan Open Spaces Act, 1881 (Sec. 6).

These bye-laws will be subject to the provisions contained in Sections[2] 182 to 186 of the Public Health Act, 1875, and the penalties imposed thereby will be recoverable in a summary manner.

Bye-laws subject to provisions of Public Health Act. Open Spaces Act, 1887 (Sec. 10).

[1] Such of the provisions of these Acts as do not relate to disused burial grounds have already been explained (see pp. 154 and 155).

[2] As to these sections, see note 2, p. 33.

XXV. MEDICAL OFFICERS, SURVEYORS, AND INSPECTORS OF NUISANCES

Powers of sanitary officers already dealt with.

In the foregoing pages such of the powers and duties of urban and rural sanitary authorities as are most closely connected with the public health [1] have been treated under their several heads; and in so doing, it has been necessary to refer incidentally to many of the powers [2] of sanitary officers, and to the action which it is contemplated by the statutes that they should take for the protection of the public health. But, except so far as this has been unavoidable, the statutory provisions and the orders of the Local Government Board which have been made thereunder in relation to sanitary officers, have been purposely reserved for discussion until the subject matter of the several enactments which it is the duty of these officers to carry into execution had been explained.

Statutory provisions relating to the appointment of sanitary officers by urban sanitary authorities (Public Health Act, 1875, Sec. 189).

It will be convenient, in the first instance, to consider what are the statutory provisions with reference to the appointment by urban and rural sanitary authorities of medical officers of health, surveyors, and inspectors of nuisances. Section 189 of the Public Health Act, 1875, requires every urban sanitary authority to appoint one of each of those officers, and provides that the officers so appointed are to be fit and proper persons.[3] But if any urban sanitary authority is empowered by any other Act in force [4] in the district to appoint any of these officers, the requirement contained in this section will be deemed to be satisfied by the employment under the Public Health Act of the officer so appointed, with such additional remuneration as they may think fit; and no second appointment is in such a case to be made under the Public Health Act. Every urban sanitary authority is required by the same section to also appoint or employ such assistants, and other officers and servants, as may be necessary or proper for the efficient execution of the Public Health Act, and is empowered to make regulations with respect to the duties and conduct of the officers and servants so appointed or employed.

By a rural sanitary authority (Sec. 190).

A rural sanitary authority is not required to appoint a surveyor, but is required by Section 190 of the Public Health Act, from time to

[1] The powers and duties of sanitary authorities in connection with the repair of highways, the carrying out of street improvements, the regulation of street traffic and public bathing, the provision of gas works, public lighting, fire brigades, and public libraries, the licensing of hackney carriages, and a variety of other matters not very intimately connected with the public health, have been considered outside the scope of the present work. (See Prefatory Memorandum, p. 4.)

[2] See, e.g., as to the periodical inspection of the district by the inspector of nuisances for the purpose of examining as to the existence of nuisances (p. 63); the powers of entry of sanitary officers for these examinations (p. 65); the powers of medical officers of health in connection with the sanitary regulation of retail bakehouses; and the taking of legal proceedings for enforcing such regulation (p. 123); the powers of medical officers of health and inspector of nuisances with reference to the inspection of diseased or unsound meat, &c. (p. 131), and meat suspected to be horse-flesh (p. 133); the taking of samples of food and drugs suspected to be adulterated (p. 135), and margarine (p. 142); the right of sanitary officers to have free access to common lodging-houses (p. 75); representations by medical officers of health under the Housing of the Working Classes Act, 1890 (p. 82); the powers of sanitary officers when authorised by sanitary authorities to enter canal boats (p. 105) and other movable dwellings (p. 106); the inspection of dairies, cowsheds, and milk-shops (p. 147); and the numerous powers and duties of medical officers of health in connection with infectious diseases and epidemics (pp. 158 to 191).

[3] As to the qualification of a medical officer of health, see p. 203.

[4] E.g. by a local Act.

time, to appoint fit and proper persons to be medical officer or officers of health, and inspector or inspectors of nuisances. The reason why these authorities are empowered to appoint more than one of each of these officers is, no doubt, because the areas of many rural sanitary districts are far more extensive than the area of any ordinary urban sanitary district. Rural, as well as urban, sanitary authorities are required also to appoint such assistants and other officers and servants as may be necessary and proper for the efficient execution of the Public Health Act. No power is, however, given to them by the Act to make regulations with respect to the duties and conduct of these officers and servants.

Voluntary combinations for appointment of medical officers of health or inspectors of nuisances for more than one sanitary district (Sec. 191).

In districts which are small or poor the sanitary authority can seldom, if ever, afford to pay a salary sufficiently high to enable them to secure the whole of the time and services of a medical officer of health, and they are compelled, therefore, in the majority of cases, unless they combine with other sanitary authorities for this purpose, to appoint as their officer a medical practitioner the greater part of whose time is devoted to private practice. Where this is done, there is a great tendency on the part of sanitary authorities to fix the salary at so small an amount that it will by no means remunerate the officer adequately, if he devotes to the duties of his office the time and attention necessary to enable him to discharge them efficiently. There are other considerations which render this class of appointment open to objection, one of the principal of which is that the duties of the medical officer of health must, almost necessarily, bring the officer from time to time into antagonism with his private patients; and that he will be suspected, rightly or wrongly, of unduly favouring his patients in the discharge of his duties as medical officer of health. There are many manifest advantages in appointing one medical officer of health for an extended area consisting of several sanitary districts at an adequate salary and on condition that he will devote the whole of his time to the duties of his office. There are two ways in which this result may be brought about under the Public Health Act. One of these is by mutual agreement between the sanitary authorities of the several districts. By this means two or more of such authorities may combine under Section 191 of the Public Health Act in appointing one person either as medical officer of health or inspector of nuisances, subject to the sanction of the Local Government Board, who, in such cases, are required by order to prescribe the mode of the appointment and the proportions in which the expenses of the appointment and the salary and charges of the officer are to be borne by the combining authorities.

Course of procedure to be adopted with reference to combined appointments.

In cases where sanitary authorities, whether urban or rural, propose to make combined appointments under this section, the Local Government Board, in a memorandum dated February 1876, have directed the adoption of the following course of procedure: 'Each of the authorities proposing to combine should pass a resolution agreeing to combine with the other authorities in the appointment of the same person as medical officer of health, or inspector of nuisances, as the case may be; and when an arrangement has been arrived at as to the period for which the appointment is to be made, the amount of the salary to be paid to the officer when appointed, and the proportions to be borne by each authority, copies of the resolutions embodying the proposals should be transmitted to the Local Government Board for their con-

sideration.' In the same memorandum the Board state that if the proposal be sanctioned by them they will issue the order required by the statute. The order will, they say, 'provide (*a*) for the election of a joint committee, to consist of a certain number of members of each authority upon whom the appointment of the officer will devolve; (*b*) for convening a meeting of the joint committee at which the appointment is to be made in the mode prescribed by the order; (*c*) for the appointment of the clerk of one of the authorities to act as clerk of the committee for the purpose of conducting the requisite proceedings in regard to the appointment; (*d*) for the proportions in which the salary and charges of the officer, as well as the expenses of the appointment, including the remuneration of the clerk of the joint committee, are to be borne by the several authorities; (*e*) for the tenure of office and duties of the officer, and also for his qualification in the case of a medical officer of health; (*f*) for the reappointment from time to time of the person elected under the order, provided that the authorities by whom the appointment was made should be desirous of continuing his appointment for a further period. When the appointment has been duly made in pursuance of the order, the clerk to the joint committee should forthwith report the appointment to the Local Government Board for their approval.'

Extent to which advantage has been taken of the section.

A very large number of sanitary authorities have taken advantage of the above section, and have entered into voluntary agreements under it to combine for the appointment of a medical officer of health. The number of authorities which have combined with a view to the joint appointment of an inspector of nuisances is not so large. According to the twenty-second annual report of the Local Government Board (page xx), on March 31, 1893, 102 rural and 92 urban sanitary districts had been combined under the section for the appointment of medical officers of health, part of whose salaries were to be repaid by the county councils, while only 5 rural and 20 urban sanitary districts had been so combined for the appointment of inspectors of nuisances, portions of whose salaries were to be so repaid.

Where voluntary combination not effected Local Government Board may combine districts by order for appointment of medical officer of health (Sec. 286).

So much importance has been attributed by the Legislature to the appointment of medical officers of health for large areas, that the Public Health Act has provided for these appointments being made in certain cases where the sanitary authorities are unable or unwilling themselves to come to agreements for this purpose. Section 286 of the Act has enacted that the Local Government Board, where it appears to them on any representation made to them that the appointment of a medical officer of health for two or more districts, situated wholly or partially in the same county, would diminish expense, or otherwise be for the advantage of such districts, may unite by order such districts for the purpose of appointing a medical officer of health, and may make regulations as to the mode of his appointment and removal by the representatives of the authorities of the constituent districts, and as to the meetings from time to time of such authorities, and the proportion in which the expenses of the appointment and of the salary and expenses of such officer are to be borne by such authorities, and as to any other matters (including the necessary expenses of such representatives) which in the opinion of the Board require regulation for the purposes of this section; and where any such union has been effected, no other medical officer of health may be appointed for any constituent district, except as the assistant of the officer appointed

for the united district. This power of the Local Government Board is, however, subject to the proviso that no urban sanitary district, containing a population of 25,000 and upwards, or (in the case of a borough) having a separate Court of Quarter Sessions, shall be included in any union of districts formed under this section without the consent of the sanitary authority of such district or borough.

If combination objected to by sanitary authority confirmation by Parliament requisite to order.

Not less than twenty-eight days' notice that it is proposed to make an order under this section must be given by the Local Government Board to the sanitary authority of any district proposed to be included in the union; and if within twenty-one days after such notice has been given to any such authority they give notice to the Board that they object to the proposal, the Board may include their district in the union by a provisional order, but not otherwise. In other words, the order combining the districts will in such a case require the confirmation of Parliament.

Power to assign to district medical officers duties of rendering assistance to medical officer of health in these cases.

The same section further enables the Local Government Board to assign to the district medical officer of any union, comprising or coincident with any constituent district, such duties in rendering local assistance to the medical officer of health appointed for the united districts as the Board may think fit; and provides that such district medical officer shall receive, in respect of any duties so assigned to him, such additional remuneration, to be paid by the sanitary authority or authorities of the district or districts within which his duties under the section are performed, as those authorities may, with the approval of the Local Government Board, determine.

Number of districts in combination under Sec. 286.

On March 31, 1893,[1] there were thirty rural and twenty-three urban sanitary districts which had been combined for the appointment of medical officers of health under the above provisions, and in which repayment of a moiety of the salary was made out of the Parliamentary grant. It would seem, therefore, that it is only in exceptional cases that the Local Government Board avail themselves of the powers given by Section 286.

Power of sanitary authorities to avail themselves of services of medical officers of health appointed by county councils (Local Government Act, 1888, Sec. 17).

As has been already shown (page 199), it is the duty of every urban and rural sanitary authority under the Public Health Act to appoint a medical officer of health for its district, either separately or in combination with other sanitary authorities. There is, however, one case in which such an appointment need not be made. Under Section 17 of the Local Government Act, 1888, power is given to every county council to appoint one or more medical officers of health; and where this power is exercised, the county council and any urban or rural sanitary authority are empowered by the same section from time to time to make and carry into effect arrangements for rendering the services of such officer or officers regularly available in the district of the sanitary authority, on such terms as to the contribution by such authority to the salary of the medical officer of health, or otherwise, as may be agreed; and in such a case the medical officer will have within the sanitary district all the powers and duties of a medical officer appointed by the sanitary authority. So long as such an arrangement is in force, the obligation of the sanitary authority under the Public Health Act to appoint a medical officer of health is to be deemed to be satisfied without the appointment of a separate medical officer.

[1] See the Twenty-second Annual Report of the Local Government Board, p. xix.

In what cases deputy medical officers of health may be appointed (Public Health Act, 1875, Sec. 191).

In the case of the illness or incapacity of the medical officer of health in any district, Section 191 of the Public Health Act, 1875, enables any urban or rural sanitary authority to appoint and pay a deputy medical officer of health; but the approval of the Local Government Board is made necessary to any such appointment.

Grants in respect of salaries of medical officers of health and inspectors of nuisances (Public Health Act, 1875, Sec. 191; Local Government Act, 1888, Sec. 24 (2) (C.))

Prior to March 31, 1889, a Parliamentary grant was paid annually in respect of certain medical officers of health and inspectors of nuisances. Since that date a similar grant has been payable by the councils of administrative counties and county boroughs, in respect of the salaries of the same officers. The grant has always consisted of one moiety of the salaries of these officers, where their qualification, appointment, salary, and tenure of office have been in accordance with the regulations of the Local Government Board, made by order under the Public Health Act, 1875. It is not necessary that the appointments, salaries, and tenure of office of these officers should in all cases be subject to these regulations. Where the sanitary authority appointing them so elect, these officers can be appointed without any view to any part of their salaries being repaid out of the grant; and in such cases the regulations will not apply, so far as the appointments and salaries and tenure of office are concerned. The Local Government Board have, however, power by order to prescribe the qualifications and duties of all medical officers of health appointed under the Public Health Act, 1875; and as will be seen below, they have exercised this power. Where the appointment of the medical officer of health or inspector of nuisances is made with a view to obtaining the repayment of one-half of his salary from the grant, the Board have the same power of prescribing the regulations as to his qualification, appointment, duties, salary, and tenure of office, as they have in the case of district medical officers of a union.

In what cases these grants are paid, and in what not.

Power of Local Government Board to prescribe regulations.

Qualification and duties of medical officers of health.

Dealing in the first instance with the qualifications and duties of medical officers of health, it may at once be stated that they are the same whether or not the appointment is made on the understanding that any part of the salary is to be repaid out of the grant. The qualification is determined by statute. The duties are to some extent prescribed by regulations, except, and to some extent, as has already been seen,[1] they have been prescribed by statute in connection with particular matters. Section 191 of the Public Health Act provides that a person shall not be appointed medical officer of health under that Act unless he is a legally qualified medical practitioner.[2] Further qualifications have been imposed by Section 18 of the Local Government Act, 1888, which in effect provides that, except where the Local Government Board for reasons brought to their notice may see fit in particular cases specially to allow, no person shall thereafter be appointed the medical officer of health of any county or sanitary district, or combination of sanitary districts, or the deputy of such officer, unless he be legally qualified for the practice of medicine,[3] surgery, and midwifery. The same section also prohibits the appointment of any person after January 1, 1892, as the medical officer of health of any

[1] See note 2 on p. 199.

[2] A 'legally qualified medical practitioner' means a practitioner registered under the Medical Act, 1856.

[3] Section 2 of the Medical Act, 1886, provides that after June 1, 1887, a person shall not be registered under the Medical Acts in respect of any qualification referred to in these Acts unless he has passed such qualifying examination in medicine, surgery, and midwifery as in that Act mentioned.

Qualification of medical officer of health (Public Health Act, 1875, Sec. 191; Local Government Act, 1888, Sec. 18).

county, or of any district or combination of districts, which contained according to the last published census for the time being a population of 50,000 or more inhabitants, unless he is qualified as above, and also either is registered in the medical register as the holder of a diploma in sanitary science, public health, or State medicine, under Section 21 of the Medical Act, 1886,[1] or has been during three consecutive years preceding the year 1892[2] a medical officer of a district or combination of districts with a population according to the last published census of not less than 20,000, or has before the passing of the Local Government Act been for not less than three years a medical officer or inspector of the Local Government Board.

Duties of medical officers of health.

The regulations[3] of the Local Government Board provide that the following shall be the duties of a medical officer of health in respect of the district for which he is appointed, viz.:—

(1) He must inform himself as far as practicable respecting all influences affecting or threatening to affect injuriously the public health within the district.

(2) He must inquire into and ascertain by such means as are at his disposal the causes, origin, and distribution of diseases within the district, and ascertain to what extent the same have depended on conditions capable of removal or mitigation.

(3) He must by inspection of the district, both systematically at certain periods, and at intervals as occasion may require, keep himself informed of the conditions injurious to health existing therein.

(4) He must be prepared to advise the sanitary authority on all matters affecting the health of the district, and on all sanitary points involved in the action of the sanitary authority; and in cases requiring it, he must certify, for the guidance of the sanitary authority or of the justices, as to any matter in respect of which the certificate of a medical officer of health or a medical practitioner is required as the basis or in aid of sanitary action.

(5) He must advise the sanitary authority on any question relating to health involved in the framing and subsequent working of such bye-laws and regulations as they may have power to make; and as to the adoption by the sanitary authority of the Infectious Disease Prevention Act, 1890, or of any section or sections of such Act.

[1] Section 21 of the Medical Act, 1886, provides that every registered medical practitioner to whom a diploma for proficiency in sanitary science, public health, or State medicine, has, after special examination, been granted by any college or faculty of physicians or surgeons, or university in the United Kingdom, or by any such bodies acting in combination, shall, if such diploma appears to the Privy Council or to the General Council to deserve recognition on the medical register, be entitled on payment of such fee as the General Council may appoint, to have such diploma entered in the said register, in addition to any other diploma or diplomas in respect of which he is registered.

[2] Note that the three consecutive years need not be the three years immediately preceding the year 1892.

[3] These regulations are contained in two orders of the Local Government Board, dated respectively March 23, 1891, one of which is addressed to urban and the other to rural sanitary authorities, and each of which relates to the medical officers of health appointed by the sanitary authority, and to those inspectors of nuisances portions of whose salaries are repaid out of the grant. The duties of all medical officers of health, prescribed by each of these orders, are identical, with this exception, that in addition to the duties prescribed in the cases of medical officers of health whose salaries are partly repaid out of the grant, medical officers of health no part of whose salaries are so repaid are required within seven days after their appointment to report the same in writing to the Local Government Board.

(6) On receiving information of the outbreak of any contagious, infectious, or epidemic disease of a dangerous character within the district, he must visit the spot without delay and inquire into the causes and circumstances of such outbreak, and in case he is not satisfied that all due precautions are being taken, he must advise the persons competent to act as to the measures which may appear to him to be required to prevent the extension of the disease, and take such measures for the prevention of disease as he is legally authorised to take under any statute in force in the district or by any resolution of the sanitary authority.

(7) Subject to the instructions of the sanitary authority, he must direct or superintend the work of the inspector of nuisances in the way and to the extent that the sanitary authority may approve, and on receiving information from the inspector of nuisances that his intervention is required in consequence of the existence of any nuisance [1] injurious to health, or of any overcrowding in a house, he must, as early as practicable, take such steps as he is legally authorised to take under any statute in force in the district or by any resolution of the sanitary authority as the circumstances of the case may justify and require.

(8) In any case in which it may appear to him to be necessary or advisable, or in which he shall be so directed by the sanitary authority, he must himself inspect and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, or milk, or any other article [2] to which the provisions of the Public Health Act, 1875, in this behalf apply, exposed for sale, or deposited for the purpose of sale or of preparation for sale, and intended for the food of man, which is deemed to be diseased, or unsound, or unwholesome, or unfit for the food of man; and if he finds that such animal or article is diseased, or unsound, or unwholesome, or unfit for the food of man, he must give such directions as may be necessary for causing the same to be dealt with by a justice according to the provisions of the statutes [3] applicable to the case.

(9) He must perform all the duties imposed upon him by any bye-laws and regulations of the sanitary authority, duly confirmed, in respect of any matter affecting the public health, and touching which they are authorised to frame bye-laws and regulations.

(10) He must inquire into any offensive process of trade [4] carried on within the district, and report on the appropriate means for the prevention of any nuisance or injury to health therefrom.

(11) He must attend at the office of the sanitary authority, or at some other appointed place, at such stated times as they may direct.

(12) He must from time to time report in writing to the sanitary authority his proceedings, and the measures which may require to be adopted for the improvement or protection of the public health in the district. He must in like manner report with respect to the sickness and mortality within the district, so far as he has been enabled to ascertain the same.

(13) He must keep a book or books, to be provided by the sanitary authority, in which he must make an entry of his visits, and notes of

[1] See pp. 61 to 65.

[2] As to the extension of Sections 116–119 of the Public Health Act, 1875, to other articles than those mentioned in these sections, see p. 131.

[3] See p. 131.

[4] See pp. 111 to 114.

his observations and instructions thereon, and also the date and nature of applications made to him, the date and result of the action taken thereon and of any action taken on previous reports; and must produce such book or books, whenever required, to the sanitary authority.

(14) He must also prepare an annual report, to be made to the end of December in each year, comprising a summary of the action taken, or which he has advised the sanitary authority to take during the year for preventing the spread of disease, and an account of the sanitary state of his district generally at the end of the year. The report must contain an account of the inquiries which he has made as to conditions injurious to health existing in his district, and of the proceedings in which he has taken part or advised under the Public Health Act, 1875, so far as such proceedings relate to those conditions; and also an account of the supervision exercised by him, or on his advice, for sanitary purposes over places and houses that the sanitary authority have power to regulate, with the nature and results of any proceedings which may have been so required and taken in respect of the same during the year. The report must also record the action taken by him, or on his advice, during the year, in regard to offensive trades, to dairies, cow-sheds, and milk-shops, and to factories and workshops, and must contain tabular statements (on forms to be supplied by the Local Government Board, or to the like effect) of the sickness and mortality within the district, classified according to diseases, ages, and localities. If the medical officer of health ceases to hold office before December 31 in any year, he must make the like report for so much of the year as has expired when he ceases to hold office.

(15) He must give immediate information to the Local Government Board of any outbreak of dangerous epidemic disease within the district, and transmit to them a copy of each annual report and of any special report. He must make a special report to the Board, of the grounds of any advice which he may give to the sanitary authority with a view to their requiring the closure of any school or schools in pursuance of the code of regulations[1] approved by the Education Department and for the time being in force.

(16) At the same time that he gives information to the Local Government Board of an outbreak of infectious disease, or transmits to them a copy of his annual report, or of any special report, he must give the like information or transmit a copy of such report to the county council of the county in which his district may be situated.

(17) In matters not specifically provided for in these regulations he must observe and execute any instructions issued by the Local Government Board, and the lawful orders and directions of the sanitary authority applicable to his office.

(18) Whenever the Local Government Board make regulations[2] for all or any of the purposes specified in Section 134 of the Public Health Act, 1875, and declare the regulations so made to be in force within any area comprising the whole or any part of the district, he must observe them so far as the same relate to or concern his office.

In addition to the requirement imposed on every medical officer of health by the above regulations, of sending a copy of his annual report

[1] As to these regulations, see p. 173.
[2] As to these regulations, see pp. 186 to 191.

and of any special report to the Local Government Board, a further obligation is imposed on him by Section 19 of the Local Government Act, 1888, which provides that every medical officer of health for a district in any county shall send to the county council a copy of every periodical report, of which a copy for the time being is required by the regulations of the Local Government to be sent to that Board. This requirement, it is to be observed, extends not only to officers whose salaries are partly repaid out of the grant, but also to those no portion of whose salaries is thus repaid. If a medical officer of health fails to comply with this requirement, the county council may refuse to pay any contribution which they would otherwise pay in pursuance of the Act towards his salary. If it appears to the county council from any such report that the Public Health Act, 1875, has not been properly put in force within the district to which the report relates, or that any other matter affecting the public health of the district requires to be remedied, the council may cause a representation to be made to the Local Government Board on the matter.

Duty to send copies of medical reports to county council (Local Government Act, 1888, Sec. 19).

Result of failure to fulfil this requirement where salary of officer is partly repaid by the county council.

Prior to the passing of the Local Government Act, 1888, no statutory penalty was imposed either on a medical officer of health or on the sanitary authority by whom he was appointed, in the event of his failing to comply with any of the regulations of the Local Government Board. Now, however, it is provided by Section 24 (2) (c) of the Local Government Act, that if the Local Government Board certify to a county council [1] that any medical officer of health whose qualification, appointment, salary, and tenure of office,[2] are in accordance with the regulations made by order under the Public Health Act, 1875, or any Act repealed by that Act, has failed to send to the Local Government Board such report and returns as are for the time being required by the regulations, respecting the duties of such officer, made by order of the Board under either of the said Acts, a sum equal to half of the salary shall be forfeited to the Crown, and shall be paid into Her Majesty's Exchequer instead of to the sanitary authority by whom such medical officer of health has been appointed. And by Section 27 of the same Act, the Local Government Board are required to deduct the amount from the sums which they pay to the county council out of the local taxation account.

Result of failure to send copies of report and returns to the Local Government Board where the salary of the officer is partly repaid by the county council (Secs. 24 (2) (C.) and 27).

In circulars addressed to the councils of counties and county boroughs on October 16 and 25, 1889, the Local Government Board stated that they had had under consideration what arrangements it would be most convenient for the councils that they should adopt with reference to the issue of their certificates under the above provisions; and that they had decided that, as the payments and transfers to be made by the councils, under Section 24, on account of the salaries of medical officers of health, would be in respect of salaries for the twelve months ending September 29, it was desirable that the certificates should be made as soon after that date as practicable. They accordingly undertook to inform the councils, prior to the end of October in each year, of the cases, if any, in which they might propose to certify that any medical officer of health, any part of whose salary would otherwise be repayable by the council, had made default in

Arrangements of Local Government Board as to the issue of certificates of default under the above provisions.

[1] By Section 34 of the Act this provision is made applicable to the councils of county boroughs.

[2] See pp. 208 to 210, as to the regulations relating to the appointment, salary, and tenure of office of these officers.

sending to them the report and returns required by their regulations.

Regulations of Local Government Board as to appointments, tenure of office and salaries of medical officers of health and inspectors of nuisances whose salaries are partly repayable out of grants.

It will be convenient in the next place to state the effect of the regulations of the Local Government Board with reference to the appointments, tenure of office, and salaries of medical officers of health, and inspectors of nuisances, whose salaries were, prior to the passing of the Local Government Act, 1888, partly repayable out of moneys voted by Parliament, and are now partly repayable by the councils of counties, and county boroughs, out of the Imperial Revenues transferred to them in substitution for the Parliamentary grants. These regulations are contained in the orders of the Local Government Board, dated March 23, 1891, to which reference [1] has already been made. Subject to the slight variation noted below, they are the same in the case of medical officers appointed by urban, as in the case of those appointed by rural, sanitary authorities. The following are the requirements of such of them as relate to the appointments of those officers :—

Regulations relating to the appointments.

Before any appointment is made under the regulations, a statement must be submitted to the Local Government Board, containing the particulars mentioned in a form set out in the schedule to the regulations, and such other particulars as may be required by the Board.

The particulars in the form above referred to are, the name of the sanitary authority, the names of the parishes, either wholly or in part, comprised in the district for which the officer is to be appointed, the acreage actual or estimated of the district, its population according to the last census, the term for which it is proposed that the appointment should be made, the amount of salary, and whether or not it is intended that the officer should give his whole time to the performance of the duties of his office.

Where, however, any such statement has been submitted to the Local Government Board, either under these regulations or the regulations previously in force, no further statement under these regulations will be necessary, unless the sanitary authority, on any appointment, propose to alter the terms of the appointment, or unless the Board require a fresh statement to be submitted.

When the approval of the Local Government Board has been given to the proposals contained in the statement submitted, the authority must proceed to the appointment of the officer. Where, however, the sanitary authority have made the appointment before submitting the statement to the Board, the appointment will be valid if approved by the Board. The appointment may not be made by a rural sanitary authority, unless notice has been given in one or other of the following modes, i.e. either by notice at one of the two ordinary meetings next preceding the meeting at which the appointment is to be made, such notice being duly entered on the minutes, or unless an advertisement specifying the district or districts for which the appointment is to be made, together with the amount of salary proposed to be assigned, and the day fixed for such appointment, has appeared in some public newspaper or newspapers, circulating in the district of the authority, at least seven days before the day so fixed. Where the appointment is to be made by an urban sanitary authority, it may not be made

[1] See note 3 on p. 204.

until an advertisement has been published in the same manner and time, and contains the same particulars as the advertisement required to be published in a similar case by the rural sanitary authority.

The officer must be appointed by a majority of the members present, and voting on the question, at a meeting of the authority, consisting of more than three members, or by three members if no more be present, but such appointment will be subject to the approval of the Local Government Board. The sanitary authority must specify in the regulation making the appointment, the term for which, with the approval of the Board, the appointment is made.

Every appointment must, within seven days after it is made, be reported to the Local Government Board by the clerk to the sanitary authority.

Upon the occurrence of a vacancy the sanitary authority must proceed to make a fresh appointment, unless they deem it advisable that the vacancy should not be filled up forthwith; in which case they may appoint a person to act temporarily, subject to the approval of the Local Government Board.

If a vacancy be about to occur, on notice given by an officer of an intended resignation to take effect on a future day, or on notice given by the sanitary authority in pursuance of the regulations, or, in the case of an officer who holds his office for a specified term, by the term coming to an end, the sanitary authority may provide for the continuance of such officer, or appoint his successor, at any time subsequent to the giving of the notice, or within three calendar months next before the expiration of the term.

If, in the case of an officer who may have been appointed for a specified term, the authority desire to renew his appointment for a further term or otherwise, in conformity with the regulations, and no fresh arrangement is proposed with respect to the terms of the appointment, it will not be necessary for that purpose that the requirements of the regulations with reference to the submission to the Local Government Board of the proposals of the authority for the approval of the Board, and the advertisement of the proposed salary and appointment, should be complied with, but it will be sufficient if the authority, either within three months before the expiration of the term for which he was last appointed, or after the expiration of such term, and in either case after notice given at one of their two ordinary meetings next preceding, pass a resolution renewing the appointment, and the Local Government Board sanction such resolution.

If any officer be prevented by sickness or accident, or other sufficient reason, from performing his duties, the authority may appoint a legally qualified person to act as his temporary substitute, and pay him a reasonable compensation for his services; and it will not be necessary in any such case to comply with any of the foregoing regulations, nor will the approval of the Local Government Board be required to any such appointment, but no compensation may be paid in any such case for a longer period than six months, unless the consent of the Local Government Board be first obtained.

Regulations as to tenure of office.

The following are the regulations relating to the tenure of office of the officers appointed under the foregoing regulations. Every such officer will continue to hold office for such period as the authority may, with the approval of the Local Government Board, determine, at the

time of his appointment, or until he die, or resign, or be removed by the authority with the assent of the Board, or by the Board, or be proved to be insane by evidence which the Board deem sufficient.

The authority may at their discretion suspend any officer from the discharge of his duties, and, in case of every such suspension, they must forthwith report the same, together with the cause thereof, to the Local Government Board; and if the Board remove the suspension of the officer by the authority, he will forthwith resume the performance of his duties.

Where any change in the extent of the district of any officer, or in his duties or salary, may be deemed necessary, and he declines to acquiesce therein, the authority may, with the consent of the Local Government Board, but not otherwise, and after six months' notice in writing, signed by their clerk, given to such officer, determine his office.

A person must not be appointed to the office of medical officer of health who does not agree to give one month's notice previous to resigning the office, or to forfeit such sum as may be agreed upon as liquidated damages.

Regulations as to salary.

The following are the regulations with respect to the salaries of these officers:

The sanitary authority must pay to every officer such salary as may be approved by the Local Government Board; and, with the approval of the Board, may pay to any officer a reasonable compensation on account of extraordinary services, or other unforeseen or special circumstances connected with his duties or the necessities of the district or districts for which he is appointed.

The salary of every officer will be payable up to the day on which he ceases to hold the office, and no longer, subject to any deduction which the authority may be entitled to make, in the event of one month's notice not being given previous to his resignation; and in case he die whilst holding such office, the proportion of salary (if any) remaining unpaid at his death will be paid to his personal representatives. But an officer who may be suspended, and who may, without the previous removal of such suspension, resign or be removed from office with the approval of the Local Government Board, will not be entitled to any salary from the date of such suspension.

The salary assigned to every officer will be payable quarterly, at Lady Day, Midsummer, Michaelmas, and Christmas Day; but the authority may pay to him at the expiration of every calendar month such proportion as they may think fit, on account of the salary to which he may become entitled at the termination of the quarter.

All salaries will be considered as accruing from day to day, and be apportionable in respect of time accordingly, in pursuance of the provisions of the Apportionment Act, 1870.

General effect of the regulations.

It will be seen from the above regulations that where any portion of the salary of a medical officer of health, or inspector of nuisances, is intended to be repaid out of the Imperial revenue, transferred to the county and borough councils by the Local Government Act, the approval of the Local Government Board must be obtained to the proposals of the authority, and to the amount of the salary to be paid to the officer, and that no such officer can without the approval of the Board be removed from office by the sanitary authority before the expiration of the term for which he is appointed. Where no part of

his salary is so repayable, none of these approvals is necessary; the authority may fix his salary at as low a sum as they choose; and if he is appointed by an urban sanitary authority, Section 191 of the Public Health Act expressly declares that he will be removable from office at their pleasure.

Policy of Local Government Board with respect to salaries of medical officers of health.

In their annual reports the Local Government Board have frequently referred to the inadequacy of the salaries which sanitary authorities occasionally propose to pay to their medical officers of health, and to their practice of withholding their consent to the proposals of the authorities when the salary is fixed at too low a figure; and they have pointed out that the object[1] of the Parliamentary grant in respect of the salaries of these officers was not only to relieve the local rates by means of a subvention from Imperial revenue, but also to secure the appointment of efficient officers by aiding the authorities to pay such salaries as will afford an adequate remuneration for the proper discharge of the duties which devolve on the officers.

Regulations as to duties of inspectors of nuisances whose salaries are partly repayable out of imperial revenues (Public Health Act, 1875, Sec. 191).

The orders prescribing the regulations already referred to have also prescribed the duties of those inspectors of nuisances any part of whose salaries is repayable out of the Imperial revenue, transferred to county and borough councils in substitution of Parliamentary grants.

The following are the duties thus prescribed for every such officer:

Duties of inspectors of nuisances.

(1) He must perform, either under the special directions of the sanitary authority, or (so far as authorised by the sanitary authority) under the directions of the medical officer of health, or in cases where no such directions are required, without such directions, all the duties specially imposed upon an inspector of nuisances by the Public Health Act, 1875, or by any other statute or statutes, or by the orders of the Local Government Board, so far as the same apply to his office.

(2) He must attend all meetings of the sanitary authority when so required.

(3) He must by inspection of the district, both systematically at certain periods and at intervals as occasion may require, keep himself informed in respect of the nuisances existing therein that require abatement.

(4) On receiving notice of the existence of any nuisance within the district, or of the breach of any bye-laws or regulations made by the sanitary authority for the suppression of nuisances, he must, as early as practicable, visit the spot and inquire into such alleged nuisance or breach of bye-laws or regulations.

(5) He must report to the sanitary authority any noxious or offensive businesses,[2] trades, or manufactories established within the district, and the breach or non-observance of any bye-laws or regulations made in respect of the same.

(6) He must report to the sanitary authority any damage done to any works of water supply, or other works belonging to them, and also any case of wilful or negligent waste of water supplied by them, or any fouling[3] by gas, filth, or otherwise, of water used for domestic purposes.

(7) He must from time to time, and forthwith upon complaint,

[1] See e.g. the Sixteenth Annual Report of the Local Government Board, p. lxxxii.
[2] See p. 112. [3] See p. 40.

visit and inspect the shops and places kept or used for the sale of butchers' meat, poultry, fish, fruit, vegetables, corn, bread, flour, milk, or any other article [1] to which the provisions of the Public Health Act, 1875, in this behalf apply, and examine any animal, carcase, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, or other article as aforesaid, which may be therein ; and in case any such article appear to him to be intended for the food of man, and to be unfit for such food, he must [1] cause the same to be seized, and take such other proceedings as may be necessary in order to have the same dealt with by a justice. In any case of doubt arising under this regulation he must report the matter to the medical officer of health, with the view of obtaining his advice thereon.

(8) He must, when and as directed by the sanitary authority,[2] procure and submit samples of food, drink, or drugs suspected to be adulterated, to be analysed by the analyst appointed under the Sale of Food and Drugs Act, 1875 ; and upon receiving a certificate stating that the articles of food, drink, or drugs are adulterated, cause a complaint to be made, and take the other proceedings prescribed by that Act.

(9) He must give immediate notice to the medical officer of health of the occurrence within the district of any contagious, infectious, or epidemic disease ; and whenever it appears to him that the intervention of such officer is necessary in consequence of the existence of any nuisance injurious to health, or of any overcrowding in a house, he must forthwith inform the medical officer of health thereof.

(10) He must, subject to the directions of the sanitary authority, attend to the instructions of the medical officer of health with respect to any measures which can be lawfully taken by an inspector of nuisances under the Public Health Act, 1875, or under any other statute or statutes, for preventing the spread of any contagious, infectious, or epidemic disease of a dangerous character.

(11) He must enter from day to day, in a book to be provided by the sanitary authority, particulars of his inspections and of the action taken by him in the execution of his duties. He must also keep a book or books, to be provided by the sanitary authority, so arranged as to form, as far as possible, a continuous record of the sanitary condition of each of the premises in respect of which any action has been taken under the Public Health Act, 1875, or under any other statute or statutes, and keep any other systematic records that the sanitary authority may require.

(12) He must at all reasonable times, when applied to by the medical officer of health, produce to him his books, or any of them, and render to him such information as he may be able to furnish with respect to any matter to which the duties of inspector of nuisances relate.

(13) He must, if directed by the sanitary authority to do so, superintend and see to the due execution of all works which may be undertaken under their direction for the suppression or removal of nuisances within the district.

(14) He must, if directed by the sanitary authority to do so, act as officer of the said authority, as local authority,[3] under the Contagious

[1] See p. 131. [2] See p. 135.

[3] As to the duties of sanitary authorities under the Contagious Diseases (Animals) Acts, see pp. 143 to 147.

Diseases (Animals) Act, 1886, and any orders or regulations made thereunder.

(15) In matters not specifically provided for in the regulations, he must observe and execute all the lawful orders and directions of the sanitary authority, and the orders of the Local Government Board which may be hereafter issued, applicable to his office.

No regulations in force prescribing qualifications of inspectors of nuisances.

No qualifications have as yet been prescribed by the Local Government Board with respect to the inspectors of nuisances, portions of whose salaries are now repayable by the county councils; and as no qualifications are prescribed by statute for any inspector of nuisances, it is in the power of any sanitary authority to appoint to this office any person, although he may have had no previous experience or training qualifying him to discharge its duties.

Medical officer of health may exercise powers of inspector of nuisances (Sec. 191).

The powers of medical officers of health and inspectors of nuisances have for the most part been already described. Before leaving this question it should, however, be mentioned that Section 191 of the Public Health Act, 1875, enables a medical officer of health to exercise any of the powers with which an inspector of nuisances is invested by that Act. This provision will often be found valuable in an emergency when an inspector of nuisances is not at hand to act under the directions of the medical officer of health.

Same person may be surveyor and inspector of nuisances (Sec. 192).

Section 192 of the same Act provides that the same person may be both surveyor and inspector of nuisances; and, as a matter of fact, it is a very common practice for both appointments to be held by one person. It must be borne in mind, however, that no repayments are made by county councils in respect of the salaries of surveyors, and that consequently, if in these cases it is desired to obtain the repayment of any portion of the salary of the inspector of nuisances, it will be necessary that separate salaries should be assigned in respect of the two offices.

Officers not to be concerned in contracts with the sanitary authority (Sec. 193).

In common with the other officers of sanitary authorities, medical officers of health, surveyors, and inspectors of nuisances, are prohibited, except in the exceptional cases mentioned below, from being in anywise concerned or interested in any bargain or contract made with the authority for any of the purposes of the Public Health Act. Any officer or servant of any such authority, who is so concerned or interested, or who, under colour of his office or employment, exacts or accepts any fee or reward whatsoever, other than his proper salary, wages, and allowances, will be incapable of afterwards holding or continuing in any office or employment under the Public Health Act, and will be liable to forfeit and pay the sum of 50*l*., which may be recovered by any person, with full costs of suit, by action of debt.

Exceptions (Public Health (Members and Officers) Act, 1885, Sec. 2).

Section 2 of the Public Health (Members and Officers) Act, 1885, has to some extent qualified these provisions, by declaring that, notwithstanding anything contained in them or any similar restrictions in any Local Act to the contrary, it shall not be unlawful for any officer or servant appointed or employed under the Public Health Act, or the Local Act by the sanitary authority, to be concerned or interested in any contract with such authority, made with such consent and approval as is mentioned in that section, for the sale, purchase, leasing or hiring of any lands, rooms, or offices, or to be concerned or interested in any contract with the authority as a shareholder in any joint stock company, and that no such officer or servant shall be incapable of holding office or of being employed by the sanitary authority, or be

liable to any penalty, by reason only of his having been concerned or interested in any such contract before or after the passing of that Act. The same section, however, provides that no such contract shall be made after the passing of that Act, or approved if made before the passing of that Act, for the sale, purchase, leasing, or hiring of any lands, rooms, or offices, except with the consent of two-thirds of the number of the members of the sanitary authority present at a meeting held after seven clear days' notice has been published in some newspaper circulating in the neighbourhood, and after notice has been sent in writing to every member stating the nature of the contract, and the time and place of the meeting at which the question is to be considered.

Public Bodies Corrupt Practices Act, 1889.

Independently of the above provisions very severe pains and penalties are imposed by the Public Bodies Corrupt Practices Act, 1889, on every person 'who by himself or in conjunction with any other person, corruptly solicits or receives, or agrees to receive, for himself or any other person . . . any gift, loan, fee, reward, or advantage whatsoever, whether for the benefit of that person or another person, as an inducement to or reward for, or otherwise on account of any member, officer, or servant of any public body, doing or forbearing to do anything in respect of any matter or transaction whatsoever, actual or proposed, in which such public body is concerned.' Any person convicted of the above offence will be liable to be imprisoned for a period not exceeding two years, with or without hard labour, or to pay a fine not exceeding 500*l.*, or to both imprisonment and fine; and in addition may be required to pay to the public body the amount of any gift, loan, fee, or reward received by him, or any part thereof; besides being liable to be adjudged incapable of being elected or appointed to any public office for seven years from the date of conviction, and to forfeit the office held by him at the time of his conviction. In the event of a second conviction for a like offence, he will, in addition to the foregoing penalties, be liable to be adjudged to be for ever incapable of holding any public office, and to be incapable for seven years of being registered as an elector, or voting at an election either of members to serve in Parliament or of members of any public body; and the enactments for preventing the voting and registration of persons declared by reason of corrupt practices to be incapable of voting will apply to a person adjudged in pursuance of these provisions to be incapable of voting; and if he is an officer or servant in the employ of any public body, upon such conviction he will, at the discretion of the court, be liable to forfeit his right and claim to any compensation or pension to which he would otherwise have been entitled.

XXVI. POWERS IN RELATION TO PROMOTION OF AND OPPOSITION TO BILLS IN PARLIAMENT

Cases in which promotion of or opposition to Bills in Parliament is necessary by sanitary authorities. Power to promote or

The powers given to sanitary authorities by general Acts of Parliament not unfrequently require to be supplemented by Local Acts—e.g. it occasionally happens that, owing to the difficulties of arranging with riparian owners,[1] or with water companies, a water supply cannot be provided for a sanitary district except by means of special legisla-

[1] As regards the difficulties which are likely to arise with riparian owners, see p. 36, and with water companies, see p. 35.

tion. In other cases, it becomes necessary for the protection of the inhabitants of a district to oppose Private Bills in Parliament promoted by water companies or others. Powers have therefore been given to town councils and other urban sanitary authorities by the Municipal Corporations (Borough Funds) Act, 1872, whenever in their judgment it is expedient for them to promote or oppose any local or personal Bill or Bills in Parliament, or to prosecute or defend any legal proceedings necessary for the promotion or protection of the inhabitants of their district, to apply the borough fund, or borough rate, or other the public funds or rates under their control, to the payment of the costs and expenses attending the same. This power is, however, subject to several limitations and restrictions.

oppose such Bills, or to prosecute or defend legal proceedings (Municipal Corporations (Borough Funds) Act, 1872, Sec. 2).

In the first place the Act expressly provides that nothing contained in it shall authorise the promotion of any Bill in Parliament for the establishment of any gas or water works to compete with any existing gas or water company established under any Act of Parliament; and that no powers contained in the Bill shall apply in any case where the promotion of or opposition to a Bill by the local authority has been decided by a Committee of either House of Parliament to be unreasonable or vexatious. Nor are the provisions of the Act to extend to applications for any Bill in Parliament for any object which would for the time being be attainable by Provisional Order. Nor may any payment be made under the powers given by the Act to any member of the local authority for acting as counsel or agent in the promotion of or opposition to any Bill.

Limitations and restrictions of this power (Secs. 2, 3, and 10).

Moreover, no expense in relation to promoting or opposing any Bill may be charged on the funds or rates under the control of the promoting or opposing authority, unless it has been incurred in pursuance of an absolute majority of the whole number of the members of the authority at a meeting of the authority, after ten clear days' notice,[1] by public advertisement, of such meeting, and of the purpose thereof, in some local newspaper published and circulating in the district, such notice to be in addition to the ordinary notice required for summoning such meeting; nor unless such resolution has been published twice in some newspaper or newspapers circulating in the district, and has received in respect of matters within the jurisdiction of the Local Government Board the approval of that Board, and in respect of other matters the approval of the Secretary of State; and in case of the promotion of a Bill no further expense may be incurred or charged in pursuance of the Act, after the deposit of the Bill, unless the propriety of such promotion is confirmed by an absolute majority of the whole number of the members of the authority at a further special meeting, to be held in pursuance of a similar notice to that required for the passing of the former resolution, which meeting must be held not less than fourteen days after the deposit of the Bill.

Proceedings to be taken by the sanitary authority to obtain this power (Sec. 4).

Approval of Local Government Board or Secretary of State if necessary.

A still more serious restriction is imposed by the last paragraph of Section 4 of the Act, which provides that no expense of promoting or opposing any Bill in Parliament in pursuance of the Act may be charged on the rates or funds under the control of the promoting or opposing authority, unless such promotion or opposition has had the consent of the owners and ratepayers of the district, to be expressed by

Necessity for consent of the owners and ratepayers

[1] These ten days must be exclusive of the day when the advertisement appears and the day when the meeting is held.

resolution in the manner provided in the Local Government Act,[1] 1858, for the adoption of that Act.

This requirement is usually the most serious of the restrictions imposed by the Act, as the owners and ratepayers sometimes not unreasonably object to the heavy costs which may be incurred in relation to Parliamentary proceedings. It has, no doubt, in some cases prevented a desirable promotion or opposition in Parliament; but, on the other hand, it is impossible to say that it has not had a salutary effect in checking unnecessary Parliamentary expenses.

[1] The provisions of the Local Government Act, 1858, which are here referred to were repealed by the Public Health Act, 1875, but were re-enacted in the third schedule to that Act. They require the meeting of the owners and ratepayers to be summoned on the requisition of twenty ratepayers or owners, or ratepayers and owners, who may be required to give to the summoning officer (in boroughs the mayor, and in other urban sanitary districts the chairman of the sanitary authority, or in the event of his not acting, a person appointed by the Local Government Board) security in a bond, with two sufficient sureties for the repayment in the event of the resolution not being passed, of the costs incurred in relation to the meeting, or of any poll taken in pursuance of any demand made thereat. Notice of the meeting must be published by advertisement in some one or more newspapers circulating in the district, and must also be affixed to the principal doors of every church and chapel in the district to which notices are usually affixed. If at the meeting a poll is demanded and not withdrawn, it must be taken in the same manner as polls for the election of members of Local Boards.

PART III

UNIONS OF URBAN AND RURAL SANITARY DISTRICTS AND AUTHORITIES

Combinations of sanitary authorities for purposes of the Public Health Act, 1875.

The circumstances of adjoining urban and rural sanitary districts are not unfrequently such as to render it desirable that the sanitary authorities should combine for certain purposes of the Public Health Act, 1875. Reference has already been made [1] to the provisions of that Act, which enables these combinations to be made for the joint appointment of medical officers of health and inspectors of nuisances, to act for more than one district. There are, however, other purposes for which similar combinations are desirable. In some cases the purposes for which the joint action of the two authorities is requisite are temporary. In others, although they may be permanent, the matters to be dealt with are of such a kind that an agreement between the authorities is sufficient to provide for all that is necessary. To meet these cases, Section 285 of the Public Health Act provides that any urban or rural sanitary authority may, with the consent of the urban or rural sanitary authority of any adjoining district, execute and do in such adjoining district all or any of such works and things as they may execute and do within their own district, and on such terms as to payment and otherwise as may be agreed on between them and the sanitary authority of the adjoining district; and that, moreover, two or more sanitary authorities may combine together for the purpose of executing and maintaining any works that may be for the benefit of their respective districts or any part thereof. All moneys which any sanitary authority may agree to contribute for defraying expenses under this section, will be deemed to be expenses incurred by them in the execution of works within their district.

Combinations under agreements (Public Health Act, 1875, Sec. 285).

Combinations by formation of joint boards and united districts (Sec. 279).

There are, however, other cases, in which the subject matter of the arrangement is of such a character as to render it desirable that the districts should be permanently united, and a joint authority constituted to carry the arrangement into effect. For example, where it is proposed to provide a common water works undertaking, or one system of sewerage, and sewage disposal, or one hospital, for the benefit of more than one sanitary district, or to enter into any other permanent arrangement for the mutual benefit of adjoining districts, which will necessitate the acquisition of land, and in which it is difficult at the time when it is entered into to provide for the various contingencies which may arise in the carrying out of the undertaking, it is desirable that the districts should be united in such

[1] See pp. 200 to 203.

a manner that neither may retire from the union, and that each shall have a voice in proportion to its interests in the future management and extension, if needs be, of the undertaking. With this object, Section 279 of the Public Health Act provides that where, on the application of the sanitary authorities of any urban or rural sanitary districts, it appears to the Local Government Board that it would be for the advantage of such districts, or any of them, or any parts thereof, or of any contributory [1] places in any rural sanitary district or districts, to be formed into a united district for all or any of the purposes following (that is to say):

(1) The procuring a common supply of water; or,

(2) The making a main sewer, or carrying into effect a system of sewerage for the use of all such districts or contributory places; or,

Governing body of united district (Sec. 280).

(3) For any other purposes of that Act;

the Local Government Board may by Provisional Order [2] form such districts or contributory places into a united district. The governing body of any such united district will be a Joint Board, consisting of such ex-officio members, and of such number of elective members as the Local Government Board may, by the Provisional Order forming the district determine; and the Joint Board will be a body corporate by such name as may be determined by the Provisional Order, having a perpetual succession and a common seal, with power to hold land for the purposes of its constitution, without any licence in mortmain.

Provisional order forming united district (Sec. 281).

The Provisional Order forming the united district must define the purposes for which the district is formed, and the powers, rights, duties, capacities, liabilities, and obligations which the joint Board is authorised to exercise or perform, or is made subject to; and must contain regulations as to the qualification and mode of election of elective members of the Joint Board, their continuance in office, casual vacancies in the Joint Board, their meetings and officers, and any other matter or thing, including the adjustment of present and future liabilities and property with respect to which the Local Government Board may think fit to make any regulations for the better carrying into effect the provisions of the Public Health Act with respect to united districts.

Sanitary authorities of component districts to cease to use certain powers on constitution of Joint Board.

Upon the constitution of a Joint Board the sanitary authorities having jurisdiction in the component districts or contributory places will cease to exercise therein any powers, or to perform any duties, or to be subject to any liabilities or obligations, which the Joint Board is authorised to exercise or perform, or is made subject to. But the Joint Board may delegate to the sanitary authority of any component district the exercise of any of its powers, or the performance of any of its duties.

Expenses of Joint Board (Sec. 283).

Any expenses incurred by a Joint Board in pursuance of the Public Health Act, unless otherwise determined by the Provisional Order, will be defrayed out of a common fund, to be contributed by the component districts or contributory places in proportion to the rateable value of the property in each district or contributory place, ascertained according to the valuation list in force for the time being. As this rateable value will be the full rateable value appearing in the valuation list, and not the value on which the rates will be based, after making

[1] As to what constitutes a contributory place, see p. 28.

[2] These orders will be of no effect until confirmed by Parliament.

allowances for land, tithes, &c., it will not usually be a desirable basis to take for fixing the contributions. It will, however, be possible in the Provisional Order to take any basis for determining the contributions; e.g. the population, the number of houses supplied with sewers or water, or any other basis that may seem most equitable, having regard to the circumstances of each case.

Number of joint authorities.

From the Local Taxation Returns, it appears that during the year ended March 25, 1891, the number of joint authorities in existence, which had been constituted under the Public Health Act, or under Local Acts for sanitary purposes, was thirty-five,[1] of which twelve had been formed for the purposes of main sewerage and sewage disposal, one for the management of a joint sewage farm, five for the carrying on of joint water works undertakings, fifteen for the provision of hospitals, and one for the provision of a cemetery. Of these, the five which had been formed for the carrying on of water works undertakings had all been constituted under Local Acts. The reason why Local Acts were required in these cases for the purposes of the water undertakings was, no doubt, the impossibility of obtaining the written consent of the persons interested in the water rights affected by the abstraction of the water required for the water works.

[1] This number is exclusive of the combinations which had been formed for the appointment of medical officers of health (as to which see p. 201), and of the port sanitary authorities who were Joint Boards (as to which see p. 221).

PART IV

PORT SANITARY AUTHORITIES

Powers of urban and rural sanitary authorities to check importation of infectious disease.

As has already been shown,[1] various powers have been given to urban and rural sanitary authorities for the purpose of enabling them to check the importation of infectious disease into this country. With this object, every ship or vessel, not under the command of any naval officer, or belonging to any foreign government, is to be deemed to be within the district of some urban or rural sanitary authority, not only for the purpose of the provisions of the Public Health Act, 1875, relating to nuisances, but also for the purposes of several sections of that Act relating to infectious diseases and hospitals. Moreover, for the purposes of the regulations[2] of the Local Government Board relating to cholera, large powers are given to urban and rural sanitary authorities in relation to ships which have come from infected ports, when such ships are not within the jurisdiction of port sanitary authorities. These powers, if properly exercised by the sanitary authorities, are probably sufficient for the protection of any part of the coast which is not ordinarily frequented by foreign vessels, or by any large number of coasters.

Reasons why port sanitary authorities are necessary.

It however usually happens that a port[3] which is much frequented by shipping abuts on the districts of more than one sanitary authority, so that under the above provisions its shipping would be under the jurisdiction of more than one sanitary authority, and might indeed pass from time to time from the jurisdiction of one authority into that of another. It is therefore obviously desirable that in these cases so much of the port as is frequented by the shipping should be placed under the control of one authority for sanitary purposes. Hence the necessity for the constitution of port sanitary authorities.

Under what statutes port sanitary authorities constituted.

The Corporation of London were made the port sanitary authority of the Port of London,[4] by the Public Health Act, 1872 ; and the Corporation of Sunderland the port sanitary authority for the Port of Sunderland by the Borough of Sunderland Act, 1885. Every other port sanitary authority now in existence has been constituted either by order or by Provisional Order of the Local Government Board under the Public Health Act, 1872, the Public Health Act, 1875, or the Public Health (Ships, &c.) Act, 1885.

[1] See pp. 66 and 177.

[2] As to these regulations, see pp. 180 to 188.

[3] 'Port' is defined by the Public Health Act as meaning a port as established for the purposes of the customs of the United Kingdom. The customs' ports thus established are usually much larger than the area for which a port sanitary authority acts.

[4] They have been confirmed in this capacity by the Public Health (London) Act, 1891. See Section 111 of that Act.

Temporary and permanent port sanitary authorities.

These Acts have enabled the Local Government Board to constitute port sanitary authorities, either temporarily or permanently. For several years after the passing of the Act of 1872, which first authorised the formation of these authorities, the policy of the Local Government Board was to constitute them, except in exceptional cases, temporarily, in order that some experience might be had of their working before the arrangements were made permanent. The temporary orders constituting them were renewed, with or without alterations, from year to year. There are, however, some disadvantages inseparable from the constitution of temporary authorities, who cannot acquire and hold lands for the purposes of a hospital, or contract loans for that purpose; and of late years there has been a marked tendency to constitute port sanitary authorities permanently, where the temporary arrangements have been found to work satisfactorily. From the Appendix [1] to the Twenty-second Annual Report of the Local Government Board, it appears that of the fifty-eight port sanitary authorities in England and Wales in existence on December 31, 1892, no less than forty-nine were constituted permanently.

Constitution of port sanitary authority (Public Health Act, 1875, Sec. 287).

In constituting a port sanitary authority, the Local Government Board may adopt either of the following plans: They may make any riparian authority [2] the port sanitary authority for the whole or any part of the port. Or they may constitute the port sanitary authority by combining any two or more riparian authorities having jurisdiction within the port or any part thereof, and prescribe the mode of their joint action; or by forming a Joint Board consisting of representative members of any two or more riparian authorities, in the manner provided by the Public Health Act with respect to the formation of a united district.[3] Or they may constitute one port sanitary authority for any two or more ports, by forming a Joint Board consisting of representative members of all or any of the riparian authorities having jurisdiction within such ports or any part thereof.

The Local Government Board have in no case constituted a port sanitary authority by combining any two or more riparian authorities, and prescribing the mode of their joint action; but with this exception they have constituted port sanitary authorities in each of the ways above indicated. In a large number of cases they have made the riparian authority which has a preponderating influence in the port the port sanitary authority; e.g. in the cases of Liverpool, Cardiff, Bristol, Portsmouth, Southampton, Rochester, Yarmouth, and Grimsby, the town council of the borough has been constituted the port sanitary authority. In a considerable number of instances in which a case has been made out for allowing the representatives of more than one riparian authority to have a voice in the sanitary administration of the port, they have constituted a Joint Board consisting of such representatives the port sanitary authority. Among the ports in which such a port sanitary authority has been set up, are Boston, Chester,

[1] See the appendix to the Twenty-second Annual Report of the Local Government Board, pp. 447-453.

[2] The expression 'riparian authority' includes any urban or rural sanitary authority whose district, or part of whose district, forms part of, or abuts on, any part of a port in England, or the waters of such port; or the conservators, commissioners, or other persons having authority in or over such port or any part thereof.

[3] As to the manner in which a Joint Board and a united district may be formed under the Public Health Act, see pp. 217 and 218.

Cowes, Exeter, Hartlepool, Harwich, Milford, Plymouth and Swansea. And in a comparatively small number of cases they have set up joint boards having jurisdiction over more than one port. Instances in which this has been done are to be found in the port sanitary authorities of the ports of Hull and Goole, Middlesbrough and Stockton, and Newcastle and North and South Shields.

In what cases port sanitary authorities can be constituted by provisional order, and in which by order (Public Health (Ships, &c.) Act, 1885, Sec. 3).

Until the passing of the Public Health (Ships, &c.) Act, 1885, a port sanitary authority could only be constituted permanently under the Public Health Act by a Provisional Order, which was of no effect until confirmed by Parliament. On the other hand, a temporary port sanitary authority might be constituted by a mere order of the Local Government Board, which might from time to time be renewed by a further order. Section 3 of the Act of 1885 has, however, provided that in any case in which the Local Government Board are by the Public Health Act authorised permanently to constitute a port sanitary authority by Provisional Order, they may permanently constitute a port sanitary authority by order. Any order under this section will, however, become provisional and require the confirmation of Parliament, if before the day fixed for its coming into force notice in writing objecting to it is sent to the Local Government Board and not withdrawn, by any riparian authority,[1] which is by the order or otherwise required to contribute to the expenses [2] of the port sanitary authority. And in order to give such riparian authorities the opportunity of making any such objection, the section requires that every order made under it shall specify a day on which it is to come into operation in the event of its not becoming provisional, and that a copy of the order shall be sent at least four weeks before such day to every riparian authority, who under the order or otherwise will have to contribute to the expenses of the port sanitary authority.

Powers assigned to port sanitary authorities (Public Health Act, 1875, Sec. 289).

Any order constituting a port sanitary authority may assign [3] to such authority any powers, rights, duties, capacities, liabilities and obligations under the Public Health Act; and where it constitutes a Joint Board, it may contain regulations with respect to any matters for which regulations may be made by a Provisional Order forming a united district under the Public Health Act.

The powers usually conferred on port sanitary authorities by these orders include those which sanitary authorities possess under the

[1] For the definition of 'riparian authority' see note 2 on p. 221.

[2] As to the expenses of port sanitary authorities, see pp. 223 and 224.

[3] As already mentioned (p. 220) the Corporation of London were constituted the port sanitary authority of the Port of London by statute, and not by an order of the Local Government Board. Doubts having consequently arisen as to the validity of an order issued by the Board by which certain powers of an urban sanitary authority had been assigned to this port sanitary authority, Section 13 of the Diseases Prevention (Metropolis) Act, 1883, provided that 'the Local Government Board shall be deemed to have been empowered to assign to the port sanitary authority of the Port of London for the whole of the said port the powers, rights, duties, capacities, liabilities, and obligations, which they have assigned to them. Section 112 of the Public Health (London) Act, 1891, has since enabled the Board by order to assign to this port sanitary authority any powers, rights, duties, capacities, liabilities, and obligations of an urban sanitary authority under that Act, or the Public Health Act, 1875, and any Act extending or amending the same, with such modifications and additions, if any, as may appear to the Board to be required.' The order may extend to the port a bye-law made under the Public Health (London) Act, 1891, otherwise than by the port sanitary authority, but any such bye-law, until so extended, will not extend to the port. The same section provides that the port sanitary authority may acquire and hold land for the purposes of their constitution without any license in mortmain.

following sections of the Public Health Act, 1875: viz. Sections 91 to 111,[1] relating to nuisances; Sections 120 to 133,[2] relating to infectious diseases and hospitals; Sections 134 to 140,[3] relating to the prevention of epidemic diseases; Sections 141 and 142,[4] relating to mortuaries; and Sections 175 to 177,[5] relating to the purchase of land. In addition to these sections, the provisions of the same Act relating to contracts, arbitrations, bye-laws, medical officers of health and inspectors of nuisances, the conduct of business, audit, legal proceedings, and defaulting authorities are usually made applicable, as well as Section 2[6] of the Public Health (Ships, &c.) Act, 1885.

Jurisdiction of port sanitary authority (Sec. 288).

Section 288 of the Public Health Act provides that the order of the Local Government Board constituting a port sanitary authority shall be deemed to give such authority jurisdiction over all waters within the limits of such port; and also over the whole or such portion of the district within the jurisdiction of any riparian authority as may be specified in the order. As already mentioned,[7] however, a port sanitary authority is, as a general rule, constituted for part only of a port, as defined by the Act, i.e. for part only of a customs port; and it will therefore have no jurisdiction over the remainder of the customs port in these cases. In the orders constituting the port sanitary authority, jurisdiction is usually given to the authority over so much of the port as is comprised within certain boundaries defined by the order, and also over 'the waters of the port within such limits, and the place or places for the time being appointed as the Customs boarding station or stations for such part of the port, and every other place for the time being appointed for the mooring[8] or anchoring of ships for such part of the port, under any regulations for the prevention of the spread of diseases, issued under the authority of the statutes in that behalf; and the water-sides, docks, basins, harbours, creeks, rivers, channels, roads, bays, and streams of and belonging to the part of the port above specified.'

Powers of other sanitary authorities not to be exercised in district of port sanitary authority except where delegated (Sec. 289).

A port sanitary authority may, with the sanction of the Local Government Board, delegate to any riparian authority within or bordering on their district, the exercise of any powers conferred on such port sanitary authority by the order of the Local Government Board; but except in so far as such delegation may extend, no other authority shall exercise any powers conferred on a port sanitary authority by the order of the Local Government Board within the district of such port sanitary authority. A similar provision, it will be remembered,[9] applies in cases where the powers of any urban or rural sanitary authority are given to a Joint Board.

Expenses of port sanitary authority (Secs. 287 and 290).

Section 287 of the Public Health Act provides that any order constituting a port sanitary authority may direct the mode in which the expenses of such authority are to be paid; and Section 290 of the same Act declares that any expenses incurred by a port sanitary authority, constituted temporarily in carrying into effect any purposes of the Public Health Act, shall be defrayed out of a common fund to be contributed by the riparian authorities in such proportions as the Local

[1] See pp. 61 to 68. [2] See pp. 158 to 167. [3] See pp. 186 and 187.
[4] See p. 191. [5] See pp. 25 and 26. [6] See p. 167.
[7] See note 3 on p. 220.
[8] See the regulations requiring a place to be appointed for the mooring and anchoring of vessels suspected of being infected with disease, p. 181.
[9] See p. 218.

Government Board thinks just; and that where several riparian authorities are combined in the district of one port sanitary authority, the Local Government Board may by order declare that some one or more of such authorities shall be exempt from contributing to the expenses incurred by such authorities. As already mentioned,[1] there is as yet no case in which the Local Government Board have by order formed a port sanitary authority by combining two or more riparian authorities.

In ordinary times the expenses of port sanitary authorities[2] are not large. They are incurred for the most part in respect of the salaries of officers, the provision of hospitals, the maintenance of patients, the removal of nuisances, and the disinfection of ships. But considerable difference of opinion not unfrequently arises on the part of the riparian authorities as to the proportions in which they are to be contributed. In some cases, the rateable values of the urban sanitary districts, and contributory places in the rural sanitary districts abutting on the port; in others, the extent to which the riparian districts are deemed to be respectively interested in the shipping coming to the port; and in others the extent to which they are represented on the port sanitary authority, where a joint Board has been constituted, have been taken as the bases of the appointments.

[1] See p. 221.

[2] The expenditure of all the port sanitary authorities of England and Wales for the year ended on March 25, 1891, amounted to 13,210*l*. See the Local Taxation Returns for 1890-91.

PART V

COUNTY COUNCILS

Most of the powers and duties of county councils in relation to the public health have already been incidentally referred to in the foregoing pages in connection with the powers and duties of sanitary authorities. It will, however, be convenient to recapitulate them briefly, and to give references to the statutes by which they have been conferred and imposed. This branch of the sanitary administration of the country is of recent growth; but it has developed with great rapidity of late years, and, now that the constitution of district and parish councils has been finally settled, it is likely to undergo further important developments.

Powers and duties of county councils in relation to the public health.

I. THE LOCAL GOVERNMENT ACT, 1888

The Local Government Act, 1888, Section 17, empowers every county council to appoint and pay one or more medical officers of health, who were not to hold any other appointment or to engage in private practice without express written consent of the council. By the same section the county council and any district council might from time to time make and carry into effect arrangements for rendering the services of such officer or officers available in the district of the district council, on such terms as to the contribution by the district council to the services of the medical officer, or otherwise, as might be agreed, and the medical officer was to have within the district all the powers and duties of a medical officer appointed by a district council.

Power of county councils to appoint medical officers of health (Local Government Act, 1888, Sec. 17).

By Section 19 of the same Act every medical officer of health for a district in any county was required to send to the county council a copy of every periodical report, of which a copy is for the time being required by the regulations[1] of the Local Government Board to be sent to that Board; and if it appeared from any such report that the Public Health Act, 1875, had not been properly put in force within the district to which the report related, or that any other matter affecting the public health required to be remedied, the council were empowered to cause a representation to be made to the Local Government Board on the matter.

Reports of medical officers of health to be sent to county council (Sec. 19).

County councils were empowered by Section 14 of the same Act to enforce the provisions of the Rivers Pollution Prevention Act, 1876 (subject to the restrictions in that Act contained), in relation to so much of any stream as is situate within or passes through or by any

Power of county council to enforce provisions of the Rivers Pollution Prevention Act, 1876, Sec. 14.

[1] See p. 206.

part of their county; and for that purpose they have the same powers and duties as if they were a sanitary authority within the meaning of that Act, or any other authority having power to enforce the provisions of that Act, and the county were their district. They were also empowered to contribute towards the costs of any prosecution under the Act instituted by any other county council or by any urban or rural sanitary authority. By the same section the Local Government Board were authorised by provisional order, on the application of the council of any of the counties or county boroughs concerned, to constitute a joint committee[1] or other body representing all the counties or county boroughs through or by which a river or any specified portions of a river, or any tributary thereof passes, and to confer on such committee or body all the powers of a sanitary authority under the Rivers Pollution Prevention Act, 1876, or such of them as may be specified in the order.

Power to oppose Bills in Parliament (Sec. 15).

County councils were also given by Section 15 of the Local Government Act, 1888,[2] the same powers of opposing Bills in Parliament, and of prosecuting or defending any legal proceedings necessary for the promotion or protection of the interests of the inhabitants of their county, as were conferred on Municipal Corporations by the Borough Funds Act, 1872, with this exception: that no consent of owners and ratepayers is required for any proceedings under this section.

Powers in relation to the alteration of sanitary areas (Sec. 57).

By Section 57 of the Act very important powers were conferred on them with reference to the alteration of the boundaries of sanitary districts other than boroughs. That section provides that whenever a county council are satisfied that a *primâ facie* case is made out as regards any such district for a proposal for (*a*) the alteration or definition of its boundary; (*b*) its division or its union with any other district or districts; (*c*) the conversion of the district or part thereof, if it is a rural district, into an urban district, or if it is an urban district into a rural district, or the transfer of the whole or any part of any such district from one district to another, and the formation of new urban or rural districts, the county council may cause such inquiry to be made in the locality and such notices to be given as may be prescribed by the Local Government Board, and if satisfied that the proposal is desirable, may make an order for the same accordingly, which order must be confirmed by the Local Government Board, unless within three months after notice has been given of its provisions any district council affected by the order, or any number of county electors registered in the district, not being less than one-sixth of the total number of electors, petition the Local Government Board to disallow the order, in which case the Board are required to cause a local inquiry to be made, and to determine whether or not the order shall be confirmed.

II. THE LOCAL GOVERNMENT ACT, 1894

Alterations in areas for the purpose of carrying the Local Government Act, 1894, into effect (Local Government Act, 1894, Sec. 36).

Reference has already been made in Part I. of this work (pages 13 and 14) to the duties thrown on county councils by Section 36 of the Local Government Act, 1894, in relation to the alterations of the areas of rural sanitary districts and parishes for the purpose of bringing that

[1] Two joint committees have thus been formed for enforcing the Act in relation to the Mersey and Irwell and the rivers in the West Riding of Yorkshire.

[2] As to these powers, see pages 215 and 216.

Act into effect, and to the fact that if these alterations are not made at the expiration of two years from March 5, 1894, or such further period as the Local Government Board may allow, the powers of county councils to make these changes will be transferred to the Local Government Board.

Power of county council to act on complaint of parish council (Sec. 16).

By the same Act a very important power has been conferred on county councils to take, on the complaint of parish councils, action on the default of rural district councils similar to that which the Local Government Board have to take when complaint is made to them under Section 299[1] of the Public Health Act, 1875, that any urban or rural sanitary authority have made default in the matters to which that section relates. Where any parish council resolve that a rural district council ought to have provided the parish with sufficient sewers, or to have maintained existing sewers, or to have provided the parish with a supply of water in cases where danger arises to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply of water, and a proper supply can be got at a reasonable cost, or to have enforced with regard to the parish any provisions of the Public Health Acts, which it is their duty to enforce, and that they have failed to do so, the parish council may complain to the county council, and the county council, if satisfied after due inquiry that the district council have so failed as respects the subject matter of the complaint may resolve that the duties and powers of the district council for the purpose of the matter complained of shall be transferred to the county council, and they will be transferred accordingly. Upon any such complaint the county council may, instead of resolving that the duties and powers of the rural district council shall be transferred to them, make such an order[2] as is mentioned in Section 299 of the Public Health Act, 1875, and may appoint a person to perform the duty mentioned in the order, and upon such appointment Sections 299[3] to 302 of that Act will apply with the substitution of the county council for the Local Government Board.

Notice of resolution of county council to be sent to district council and Local Government Board (Sec. 63 (1)).

Where the powers of a district council are by virtue of any such resolution transferred to a county council, notice of the resolution must be forthwith sent to the district council and the Local Government Board, and any expenses incurred by the county council will be a debt from the district council to the county council.

Where the rural district is in two counties (Sec. 63 (2)).

Where a rural district is situate in two or more counties a parish council complaining under the Act may complain to the county council of the county in which the parish is situate, and if the subject matter of the complaint affects any other county the complaint must be referred to a joint committee of the councils of the counties concerned, and any question arising as to the constitution of such joint committee will be determined by the Local Government Board.

Power of county council to confer powers of parish council on parish meeting (Sec. 19 (10)).

By Section 19 (10) of the Local Government Act, 1894, a county council may, on the application of the parish meeting of a rural parish, which does not possess a separate parish council, confer on that meeting any of the powers[4] conferred on a parish council by the Act.

By Section 25 (7) of the same Act, the Local Government Board are authorised to exercise the powers[5] of putting urban powers in force

[1] As to this section, see page 15. [2] See page 16.
[3] Sections 300 to 302 relate to the recovery of expenses, powers of borrowing, &c.
[4] As to the sanitary powers of parish councils, see pp. 230 and 231.
[5] As to these powers, see p. 11.

Power of county council to apply for urban powers for rural districts (Sec. 25 (7)).

in rural districts and contributory places conferred on them by Section 276 of the Public Health Act, 1875, or by any enactment applying that section, on the application of the county council.

III. THE HOUSING OF THE WORKING CLASSES ACT, 1890

Powers of county council as regards unhealthy dwelling-houses in rural districts (Housing of the Working Classes Act, 1890, Sec. 45).

Where the medical officer of health or any inhabitant householders make a representation or complaint, or give information to any rural sanitary authority, or to the medical officer of health of any such authority, either respecting any dwelling-house being in a state so dangerous or injurious to health as to be unfit for human habitation, or respecting an obstructive[1] building, and also where a closing[2] order has been made as respects any dwelling-house, Section 45 of the Housing of the Working Classes Act, 1890, requires the rural sanitary authority to forthwith forward to the county council of the county in which such dwelling-house or building is situate a copy of such representation, complaint, information, or closing order, and from time to time to report to the council such particulars as the council require respecting any proceedings taken by the authority with reference thereto.

The same section enables the county council, when they are of opinion that the rural sanitary authority have failed to perform their duties in relation to the closing or demolition of any such dwelling-house, or the pulling-down of any such obstructive building, to themselves take the necessary proceedings for this purpose; and, in the event of the proceedings being successful, and not being disallowed on appeal, to recover the expenses incurred by them from the rural sanitary authority. These powers will not, however, be exercisable until reasonable notice, not being less than one month, has been given in writing by the council to the rural sanitary authority.

Certificates required for adoption of Part III. of the Act in rural areas.

Another duty imposed by this Act on county councils arises in connection with applications made to them by rural sanitary authorities for certificates under Part III.[3] of the Act that accommodation for the housing of the working classes is necessary in any rural area; that there is no probability that such accommodation will be provided without the execution of that part of the Act; and that, having regard to the liability which will be incurred by the rates, it is under all the circumstances prudent for the authority to undertake the provision of the accommodation under the powers of that part of the Act. When any such application is made to them, the county council are required to direct a local inquiry to be held by a member of the council or any officer or person appointed by them for the purpose, and if after such inquiry the person holding it gives the required certificate, they may, if they think fit, publish it in one or more local newspapers circulating in the district, and thereupon the sanitary authorities may adopt this part of the Act. Provided that unless the county council state in publishing the certificate that by reason of the date of the next ordinary election of members of the authority or otherwise, an emergency renders it necessary to adopt this part of the Act immediately, the adoption in pursuance of the certificate may not take place before the

[1] For the definition of 'obstructive building,' see p. 92.

[2] As to these orders, see pp. 89 and 90.

[3] As to the powers of sanitary authorities to provide dwellings for the working classes where this part of the Act is in force, see pp. 96 to 98.

ordinary election of members of such authority, which is held next after the date of the inquiry; and after the end of twelve months from the date of the certificate this part of the Act may not be adopted without a fresh certificate.

IV. ISOLATION HOSPITALS ACT, 1893

The powers and duties of county councils under this Act have already been so fully described on pp. 167 to 171 that it is unnecessary again to set them out in detail.

PART VI

PARISH COUNCILS AND PARISH MEETINGS

In what parishes parish councils will be established (Local Government Act, 1894, Sec. 1).

UNDER the Local Government Act, 1894, there will shortly be a parish council in every rural parish which had a population of 300 or upwards at the last census, and parish councils may be formed in many smaller rural parishes; for Section 1 of the Act provides for their establishment, in pursuance of an order of the county council, in all rural parishes having a population of 100 or upwards, where the parish meeting so resolve, and in parishes with still smaller populations, where the parish meeting desires them and the county council agree to establish them.

Powers of parish councils in relation to the public health (Sec. 8).

Wells, springs, &c.

Stagnant ponds, pools, &c.

Every parish council will have certain powers in relation to the public health in the parish for which it acts. For example, it will have power to utilise any well, spring, or stream within its parish, and to provide facilities for obtaining water therefrom, but so as not to interfere with the rights of any corporation or person; and it may deal with any pond, pool, ditch, or place containing or used for the collection of any drainage, filth, stagnant water, or matter likely to be prejudicial to health, by draining, cleansing, covering it, or otherwise preventing it from being prejudicial to health, but so as not to interfere with any private right or the sewage or drainage works of any local authority. But these powers will in no way derogate from any obligation of a district council with respect to the supply of water or the execution of sanitary works.

Recreation grounds, &c.

Parish councils may also under the Act provide or acquire lands for recreation grounds and public walks; and exercise with respect to any recreation ground, village green, open space, or public walk, which is for the time being under their control, or to the expense of which they have contributed, such powers as may be exercised by an urban authority under Section 164[1] of the Public Health Act, 1875, or Section 44[1] of the Public Health Acts Amendment Act, 1890, in relation to recreation grounds or public walks.

Delegated powers of parish councils (Sec. 15).

A rural district council may delegate to a parish council any power which may be delegated to a parochial committee[2] under the Public Health Acts, and thereupon those Acts will apply as if the parish council were a parochial committee, and where such district council appoint a parochial committee consisting partly of members of the district council and partly of other persons, those other persons must,

[1] As to these sections, see pp. 152 and 153.

[2] As to the powers which may be delegated to parochial committees, see p. 11.

where there is a parish council, be or be selected from the members of the parish council.

Joint committees (Sec. 57).

A parish council may concur with any other parish or district council in appointing out of their respective bodies a joint committee for any purpose in respect of which they are jointly interested, and in conferring, with or without conditions or restrictions, on any such committee any powers, which the appointing council might exercise, if the purpose related exclusively to their own parish or district. No such committee will have any power to borrow money or make any rate, nor will it hold office beyond the expiration of fourteen days after the next annual meeting of the councils who appointed it.

Complaint by parish council of default of district council (Sec. 16).

Reference has already been made under the head of 'County Councils' (page 227) to the complaints by parish councils of the default of rural district councils, and the action which may be taken by county councils on such complaints.

Powers of parish councils may be conferred on parish meetings (Sec. 19 (10)).

In any small rural parish, which has no separate parish council, the county council, on the application of the parish meeting, may confer on that meeting any of the powers conferred on a parish council by the Local Government Act, 1894.

Powers of parish councils and parish meetings under the Burial Acts

Parish councils and parish meetings have very important powers and duties under the Burial Acts. These are fully described in the part of this work relating to the Burial Acts (pages 232 to 245). See especially pages 237 and 238.

PART VII

THE BURIAL ACTS

Extent to which burial-grounds have been provided by sanitary authorities and burial boards.

As has already been explained (pages 193 to 197), every sanitary authority under the Public Health (Interments) Act, 1879, may, and if required by the Local Government Board must, provide a cemetery for its district. But, as a matter of fact, the great majority of the burial-grounds in this country in the possession of local authorities have not been provided by sanitary authorities under that Act, but by burial boards under the Burial Acts. As evidence of this it may be mentioned that it appears from the Local Taxation Returns that at Lady Day, 1891, the outstanding loans of burial boards amounted to 2,186,560*l.*, while those of sanitary authorities under the Public Health (Interments) Act were only 305,625*l.* One explanation of this great preponderance of burial board loans is to be found in the fact that prior to 1879 rural sanitary authorities had no power to provide burial-grounds, and urban sanitary authorities could only provide them in cases where they acted as burial boards under the Burial Acts; whereas burial boards have had the necessary powers for this purpose in London since the year 1852, and in the rest of England and Wales since 1853. Besides this reason there are other considerations, which still not unfrequently lead to the provision of a burial-ground under the Burial Acts in preference to the Public Health Acts. Amongst these the principal are (1) the great variety[1] of areas for which a burial board may be constituted, and of which a selection may usually be made in such a manner as to bring about the result that the incidence of charge of the expenses of providing the ground may be borne by those who benefit most from it; and (2) the fact that the burial board in any rural district is appointed out of persons residing in the parish or other area for which the board is elected, whereas the rural sanitary authority for the most part consists of representatives of other parishes.

I. ORDERS OF SECRETARY OF STATE FOR CLOSING BURIAL-GROUNDS AND DISCONTINUING BURIALS IN TOWNS, ETC.

The Burial Acts, 1852 and 1853.

The earliest of the Burial Acts now in force was passed in 1852. It originally applied only to the metropolis, but in the following year its provisions, so far as they were applicable, were extended to the remainder of England and Wales. It authorised the making of Orders in Council, on the representation of the Secretary of State, for the dis-

[1] As to the various areas for which a burial board may be constituted, see pp. 235 to 238.

Orders in Council for discontinuance of burials and restraining the opening of new burial-grounds in certain places.

continuance of burials in any part of the metropolis, subject to certain exceptions[1] similar to those hereinafter referred to as applying to England and Wales beyond the limits of the metropolis, and also to burials in St. Paul's and Westminster Abbey; and it prohibited the provision or use of any new burial-ground or cemetery (parochial or non-parochial) in the metropolis, or within two miles of any part thereof, without the previous approval of the Secretary of State.

Burial Act, 1853, Sec. 1.

The Burial Act of the following year, which, as already intimated, applied to burials beyond the limits of the metropolis, provided that in case it should appear to her Majesty in Council, upon the representation of the Secretary of State, that for the protection[2] of the public health the opening of any new burial-ground in any city or town, or within any other limits, save with the previous approval of the Secretary of State, should be prohibited, or that burials in any city or town, or within any other limits, or in any burial-grounds or places of burial, should be wholly discontinued, or should be discontinued subject to any exception or qualification, it should be lawful for her Majesty, on the advice of the Privy Council, to order that no new burial-ground should be opened in such city or town, or within such limits, without such previous approval; or, as the case might require, that after a time[3] mentioned in the order burials in such city or town, or within such limits, or in such burial-grounds or places of burial, should be discontinued[4] wholly, or subject to any exceptions or qualifications mentioned in such order, and so from time to time as circumstances might require.

The same section provides that notice of any such representation, and of the time when it shall please her Majesty to order the same to be taken into consideration by the Privy Council, shall be published in the 'London Gazette,' and shall be affixed to the doors of the churches or chapels of, or on such conspicuous places within the parishes affected by such representation one month before such representation is considered, and that no such representation shall be made in relation to the burial-ground of any parish until ten days' previous notice of the intention to make it shall have been given to the incumbent and the vestry clerk or churchwardens of such parish.

Orders not to extend to certain burial-grounds unless expressly mentioned (Sec. 2).

Orders under this section do not extend to any burial-ground of Quakers or Jews, nor to any non-parochial burial-ground being the property of any private person, unless the same are expressly mentioned in the order.

Contravention of orders a misdemeanour (Sec. 3).

Every person who buries any body, or in any way acts or assists in the burial of any body in contravention of any of the above orders, is guilty of a misdemeanour.[5]

[1] As to these exceptions, see Sections 2, 4, and 5 of the Burial Act, 1853, on this and the following page.

[2] It will, of course, be the duty of the medical officer of health of any district in which it is desirable in the interests of the public health that any burial-ground should be wholly or partially closed, to draw the attention of the sanitary authority to the matter, in order that they in their turn may lay the facts before the Secretary of State, with a view to his taking the necessary action under these provisions.

[3] The time appointed by any such order may be postponed from time to time by the Privy Council, and the order may be otherwise varied by the Privy Council whether the time thereby appointed for the discontinuance of burials or other operation of such order shall or shall not have arrived (Burial Act, 1855, Section 1).

[4] See, however, the exceptions specified in Sections 2, 4, and 5.

[5] The offender is also liable on summary conviction to a penalty not exceeding 10*l.* (Burial Act, 1855, Section 2).

Saving of certain rights to bury in vaults, &c., where a licence of the Secretary of State is obtained (Sec. 4).

Notwithstanding any such order, where by virtue of any faculty legally granted, or by usage or otherwise, there was on August 20, 1853, any right of interment in or under any church or chapel affected by such order, or in any vault of any such church or chapel, or of any churchyard or burial-ground affected by such order, and where any exclusive right of interment in any such burial-ground had been purchased or acquired before that day, the Secretary of State, on application being made to him, and on being satisfied that the exercise of such right will not be injurious to health, may grant a licence for the exercise of such right during such time and subject to such conditions and restrictions as he may think fit.

Order not to extend to cemeteries established by Act of Parliament, or new burial-grounds provided with approval of Secretary of State (Sec. 5).

The Act also expressly declares that its provisions shall not extend to authorise the discontinuance of burials, or to prevent the burial of the body of any person in any cemetery [1] established under any Act of Parliament or in any burial-ground or cemetery to be provided after the passing of the Act with the approval of the Secretary of State.

New burial-grounds not to be opened in certain cases without approval of Secretary of State (Sec. 6).

It further provides that where by any Order in Council made under the Act it is ordered that no new burial-ground shall be opened in any city or town, or within any limits therein mentioned, without the previous approval of the Secretary of State, no new burial-ground or cemetery (parochial or non-parochial) shall be provided and used in such city or town, or within such limits, without such previous approval.

Orders in Council to prevent vaults, &c., being dangerous or injurious to health (Burial Act, 1857, Sec. 23).

Orders in Council may also be made, upon the representation of the Secretary of State, requiring such acts to be done by or under the directions of the churchwardens or other persons as may have the care of any vaults or places of burial, as may be specified in the order, for preventing them from becoming or continuing dangerous or injurious to health. These orders must be published in the 'London Gazette,' and the expenses of carrying them into execution are payable out of the poor rate. Ten days' previous notice of the intention of the Secretary of State to make the representation must be given to the churchwardens or other persons, or to one of the churchwardens or other persons having care of the vaults or places of burial to which the representation relates.

Burial Act, 1859, Sec. 1.

Where it appears to the Secretary of State, on the representation of any person authorised by him to inspect any vault or place of burial in relation to which an Order in Council has been issued under the last-quoted enactment, that any acts which by such Order in Council are ordered to be done by or under the direction of persons other than churchwardens having the care of such vaults or places of burial are not done or performed within a reasonable time, and according to the intent of such Order in Council, the Secretary of State, by writing under his hand, may authorise and direct the churchwardens of the parish in which such vaults or places of burial may be situate forthwith to do or complete the acts mentioned in such Order in Council, or such of them as remain undone, and such order of the Secretary of State must be obeyed by the churchwardens; and they and all persons acting under their direction have the same power of entering and doing all such acts upon the premises to which the Order

[1] E.g. cemeteries provided by companies under local Acts. A burial-ground established under any of the Church Building Acts is not within the section. See *Reg.* v. *The Justices of Manchester*, 5 Ell. & Bl. 702; 2 Jur. N. S. 182; 25 L. J. M. C. 45.

in Council relates as if such acts had been directed by the Order in Council to be done by the churchwardens, and such vaults and places of burial had been under their care; and any person who obstructs such churchwardens or any others acting under their direction, or removes or interferes with the works done by them, is guilty of a misdemeanour.

Effect of these orders.

It would be difficult to exaggerate the benefits which have resulted from the above enactments. Speaking as far back as January 1, 1863, of the Orders in Council which had then been issued under them, Mr. T. Baker, in the preface to the third edition of his well-known work on the Burial Acts, says: 'During the years since the passing of the first Burial Act, in 1852, a great sanitary revolution as regards the burial of the dead has quietly taken place in this country. During those years many hundreds of Orders in Council have been issued, by which thousands of old burial-grounds, belonging to religious professors of all denominations, have either been closed or placed under regulation.' 'Not surcharged burial-grounds alone, but the use of vaults under places of worship has been discontinued under this beneficent legislation. In the metropolis alone nearly one hundred church vaults—each for the most part occupying the entire space beneath the building—have been thoroughly disinfected and permanently built up.' Taking this as a fair description of what had been the effect of these orders between 1852 and 1863, it may readily be inferred from it what has been done by the continuous issue of further orders of the same character during the last thirty years. The practical result has been to bring about the discontinuance of burials within towns, and the closing of burial-grounds as fast as they become full. It remains next to explain the machinery contained in the Burial Acts for the provision, at the cost of the rates, of new burial-grounds, which is the natural sequence of the closing of the old ones belonging to the parishioners.

II. CONSTITUTION OF BURIAL BOARDS

Proceedings formerly taken to determine whether a burial-ground shall be provided (Burial Act, 1852, Sec. 10).

The Burial Act of 1852, which, as already stated, applied at first only to the metropolis, but which in the following year was extended to the remainder of England and Wales, provided that upon the requisition [1] in writing of ten or more ratepayers of any parish,[2] in which the place or places of burial should appear to such ratepayers insufficient or dangerous to health (and whether any Order in Council in relation

[1] The necessity for this requisition was subsequently dispensed with by Section 3 of the Burial Act, 1855, which enables the churchwardens or other persons to whom it belongs to convene meetings of the vestry to convene this meeting at any time at their discretion without a requisition; and which requires them forthwith to convene the meeting whenever notice has been given of the intention of the Secretary of State to make a representation to the Privy Council that burial should be discontinued in any burial-ground of the parish.

[2] 'Parish' is defined by Section 52 of the Act as meaning every place having separate overseers of the poor, and separately maintaining its own poor. As regards burial boards in boroughs, Local Government and Improvement Act districts, and in parishes or places which have been united for ecclesiastical purposes, or have had a church or burial-ground for their joint use, or in which the inhabitants have been accustomed to meet in one vestry, and with respect to joint burial boards, see below on this and the following page. The provisions of the Burial Acts relating to the appointment of burial boards do not apply to any parish in the City of London and the liberties thereof. The Commissioners of Sewers are the burial board for the City and its liberties, and their expenses are payable out of the consolidated rate.

to any burial-ground in such parish had or had not been made), the churchwardens or other persons to whom it belonged to convene meetings of the vestry of such parish should convene a meeting of the vestry for the special purpose of determining whether a burial-ground should be provided under that Act for the parish. Seven days' public notice of the meeting and of the place and hour of holding the same, and the special purposes thereof, had to be given in the usual manner in which notices of the meetings of the vestry were given; and if it was resolved by the vestry that a burial-ground should be provided under the Act for the parish, a copy of such resolution, extracted from the minutes of the vestry and signed by the chairman, had to be sent to the Secretary of State.

If determined to provide a burial-ground, burial board to be appointed (Sec. 11).

In the event of the resolution being passed the vestry were required to appoint not less than three or more than nine persons, ratepayers [1] of the parish, to be the burial board of the parish, of whom one-third, or as nearly as may be one-third (to be determined among themselves), were to go out of office yearly at such time as should be from time to time fixed by the vestry. The retiring members were eligible for reappointment, and any member might at any time resign his office on giving notice in writing to the churchwardens or other persons whose duty it was to convene meetings of the vestry. Vacancies on the board were to be filled up by the vestry within one month, and if not so filled up might be filled up by the burial board at any meeting. Any two members might at any time, with at least forty-eight hours' notice, summon a meeting of the board for any special purpose. Three members were required to form a quorum.

Vacancies to be filled by vestry (Sec. 12), Burial Act, 1855, Sec. 4.

Meetings of the board (Burial Act, 1852, Sec. 13). Quorum (Sec. 14).

Constitution of town councils as burial boards in pursuance of Orders in Council (Burial Act, 1854, Secs. 1 and 2).

For what parishes in the borough burial-grounds to be deemed to be provided (Sec. 7).

The Burial Acts of 1852 and 1853 provided for burial boards being elected for parochial areas only. Hence difficulties arose in the constitution of these boards in boroughs, which not unfrequently consisted partly of parts of parishes; and provision was therefore made by the Burial Act of 1854 for the town councils of boroughs being made burial boards in pursuance of Orders in Council. The burial-ground or grounds provided for any borough under this Act were to be deemed to be provided for such parish or parishes, wholly or partly situate in the borough, as the town council might determine.

Burial-grounds for united parishes (Burial Act, 1855, Sec. 11).

Burial Act, 1857, Sec. 9.

The Burial Act of 1855 provided that where a parish or place had been united with any one or more other parishes or places for all or any ecclesiastical purposes, or where two or more parishes or places had theretofore had a church or burial-ground for their joint use, or where the inhabitants of several parishes or places had been accustomed to meet in one vestry for purposes common to them, the vestry, or any meeting in the nature of a vestry, of such parishes or places, whether any one or more of them did or did not separately maintain their own poor, might appoint a burial board, which should have the same powers and duties as if the places for which it was appointed were a parish separately maintaining its own poor, its expenses being borne rateably by such places. Subsequently, by the Burial Act of 1857, the approval of the Secretary of State was rendered necessary to the constitution of a burial board in these cases. The same Act enabled the vestries of any two or more parishes which had agreed to provide one burial-ground for their common use to determine the union be-

Dissolution of joint boards before burial-ground provided (Sec. 2).

[1] The incumbent of the parish was eligible to be appointed as one of the members of the burial board, although not a ratepayer.

tween themselves under such agreement at any time before the burial-ground had been provided.

Burial board for townships, &c., not separately maintaining their own poor, but having had separate burial-grounds (Sec. 12).

The Act of 1855 authorised a burial board to be appointed for any parish, township, or other district not separately maintaining its own poor which had theretofore had a separate burial-ground.

Power to burial boards to combine in building chapel (Sec. 16).

It also enabled the burial boards of any two parishes whose burial-grounds adjoined each other to concur in building a chapel on either of the burial-grounds, or partly on the one and partly on the other, to be used in common by both parishes.

Local boards of health and improvement commissioners constituted burial boards by Order in Council (Burial Act, 1857, Sec. 4).

Subsequently, by the Burial Act of 1857, power was given to constitute local boards of health of districts established under the Public Health Act, 1848, and improvement commissioners acting under local Acts, burial boards by Orders in Council upon the petition of the local board or commissioners stating that their district was co-extensive with a district for which it was proposed to provide a burial-ground, that no burial board had been appointed for such district, and that an Order in Council had been made closing all or any of the burial-grounds in the district.

Burial boards established for districts not separately maintaining their own poor (Sec. 5).

The same Act enabled a burial board to be appointed by the vestry, or meeting in the nature of a vestry, of any parish, new parish, township, or other district not separately [1] maintaining its own poor, which had had no separate burial-ground.

Local board in certain cases to be burial board of a parish comprised in its district (Local Government Act, 1858, Sec. 49),

In the following year Section 49 of the Local Government Act, 1858 (which is re-enacted by Section 343 of the Public Health Act, 1875), provided that 'where the vestry of any parish comprised in a Local Government district resolves to appoint a burial board, the local board may, at the option of the vestry, be the burial board, and all expenses incurred by such burial board shall be defrayed out of a rate to be levied in such parish in the nature of a general district rate. Provided that if such parish has been declared a ward for the election of members of the local board, such members shall form the burial board for the parish.'

In what cases burial board might transfer its powers to the urban authority (Sanitary Act, 1866, Sec. 44).

By Section 44 of the Sanitary Act, 1866, as re-enacted by the same section, the burial board of any district included in or conterminous with the district of an urban authority might, by resolution of the vestry and by agreement of the burial board and urban authority, transfer to the urban authority all their estate, property, rights, powers, duties, and liabilities.

Arrangements under Local Government Act, 1894.

The foregoing provisions will after the appointed [2] day be considerably modified, especially as regards rural parishes, by the Local Government Act, 1894.

Parish meeting to adopt the Acts.

The resolution [3] to provide a burial-ground must for the future be passed by the parish meeting and not by the vestry.

Adoption of Burial Acts in parishes having parish councils (Sec. 7 (7) & (8)).

Where any such resolution is passed, and the Burial Acts are thereby adopted for the whole or part of any rural parish, in which there is a parish council, such council will be the authority for the execution of the Acts, and the passing of a resolution to provide a burial-ground will be deemed to be an adoption of the Acts. Consequently, after the appointed day, a burial board cannot be newly established in any rural parish having a parish council.

[1] As regards parishes not separately maintaining their own poor, which have separate burial-grounds, see above on this page.

[2] See page 7.

[3] As to this resolution, see page 236.

In what cases powers of existing burial boards will necessarily be transferred to parish councils (Sec. 7 (5)).

In cases where the area under any existing burial board is coextensive with a rural parish in which there is a parish council, all the powers, duties, and liabilities of the burial board will be transferred to the parish council on the latter coming into office. The burial board in those cases therefore will cease to exist, and their place will be taken by the parish council.

In which cases it is optional to transfer the powers of existing burial boards to the parish council (Sec. 53 (1)).

Where the area under an existing burial board is part only of a rural parish, the burial board or the parish meeting for that part of the parish may transfer the powers, duties, and liabilities of the burial board to the parish council, subject to any conditions as to the execution thereof by means of a committee as the burial board or parish meeting may impose. In these cases after the transfer the burial board will cease to exist, and their place will be taken by the parish council.

Where the area under an existing burial board is in two or more rural parishes, or partly in an urban district (Sec. 53 (2)).

Where the area under an existing burial board is in two or more rural parishes, the powers and duties of the burial board will be transferred by the Act to the parish councils of such rural parishes; or, if the area is partly in an urban district, to those parish councils and the district council of the urban district. Until other provision is made in pursuance of the Act, the powers so transferred will be exercised by a joint committee. Where any such rural parish has not a parish council, the parish meeting will, for the purposes of these provisions, be substituted for the parish council.

Power of county council to alter boundaries of burial areas (Sec. 53 (4)).

The county council, on the application of a parish council, may by order alter the boundaries of any such area, if they consider that the alteration can properly be made without any undue alteration of the incidence of liability to rates and contributions, or of the right to property belonging to the area, regard being had to any corresponding advantage to persons subject to the liability or entitled to the right.

Rural parishes which have no parish council.

In rural parishes which have no parish council the parish meeting will have none of the powers of a burial board under the Burial Acts, unless the county council,[1] on the application of the parish meeting, confer on them the powers of a parish council. Where those powers are not conferred, burial boards may still be newly established in these parishes as heretofore, if there are no existing burial boards; but the adoption of the Burial Acts must be effected by a resolution of the parish meeting.[2]

Existing burial boards in urban districts (Sec. 63.)

Where there is a burial board in any urban district, or part of an urban district, the council of the district may resolve that the powers, duties, and liabilities of the burial board shall be transferred to the council as from the date specified in the resolution, and upon that date the same will be transferred accordingly, and the burial board will cease to exist, and the council will be their successors.

III. POWERS AND DUTIES OF BURIAL BOARDS

Officers and servants (Burial Act, 1852, Sec. 15).

The burial board must appoint, and may at pleasure remove, a clerk, and such other officers and servants as may be necessary for the busi-

[1] As to the power of the county council to do this, see page 227.
[2] See page 237.

ness of the board and the purposes of the burial-ground, at salaries, wages, and allowances approved [1] by the vestry.[2]

Duties of burial boards as regards provision of burial-grounds (Sec. 25).

It is the duty of every burial board with all convenient speed to proceed to provide a burial-ground for the parish or parishes for which they are appointed to act, and to make arrangements for facilitating interments therein; and in providing such burial-ground the burial board are required to have reference (*sic*) to the convenience of access thereto from the parish or parishes for which the same is provided. Any such burial-ground may be provided either within or without the limits of the parish, or all or any of the parishes for which it is provided; but no ground not already used as or appropriated for a cemetery may be appropriated as a burial-ground, or as an addition to a burial-ground under the Burial Acts, nearer than 100 yards [3] to any dwelling-house, without the consent in writing of the owner, lessee, and occupier of such dwelling-house.

Burial-ground not to be within 100 yards of a dwelling-house without consent (Burial Act, 1855, Sec. 9).

Purchase of land for burial-ground. Contracts with companies for interments (Burial Act, 1852, Sec. 26).

For the providing of such burial-ground the burial board, with the approval [4] of the vestry or vestries of the parish or respective parishes for which the board is appointed to act, may purchase any lands, including, if necessary, any cemetery or cemeteries, or part or parts thereof, belonging to any company or persons, or in lieu of providing a burial-ground may contract with any company or persons entitled to any cemetery for the interment therein, either an allotted part thereof or otherwise, of the bodies of persons who would have had rights of interment in the burial-grounds of the parish or parishes for which the burial board acts.

Incorporation of certain provisions of Lands Clauses Consolidation Act, 1845, Sec. 27.

The provisions of the Lands Clauses Consolidation Act, 1845, with the exception of certain clauses, the most important of which are those relating to the purchase of lands otherwise [5] than by agreement, are incorporated with the Burial Act, 1852; and the burial board are empowered with the approval [4] of the vestry to sell any lands purchased by them under the Act in which no interments have taken place, and which it appears to them may be properly sold and disposed of. The money to arise from such sale is to be applied to such of the purposes of the Act as the burial board think fit.

Power to sell lands not wanted (Sec. 28).

Power of burial board to let land not required for burials (Burial Act, 1855, Sec. 17).

Any burial board, with the sanction of the Secretary of State and subject to regulations approved by him, may let any land purchased by and vested in them under the Burial Acts which has not been consecrated, and in which no body has been at any time interred, and which is not for the time being required for the purposes of a burial-ground; but if they do so, they must reserve power to resume any such land

[1] No approval, sanction, or authorisation of the vestry is requisite where the town council of a borough, or a local board, or improvement commissioners have been constituted a burial board by Order in Council. And where the vestry refuse or neglect to authorise the necessary expenditure for providing a burial-ground and building the necessary chapel or chapels thereon, the Secretary of State may on appeal authorise the expenditure, the borrowing of money for the purpose, the purchase of land, &c., without any further sanction, approval, or authorisation of the vestry. Burial Act, 1854, Sec. 2. Burial Act, 1857, Sec. 4. Burial Act, 1855, Sec. 6.

[2] After the appointed day in rural parishes by the parish meeting. See Section 7 (3) of the Local Government Act, 1894.

[3] As regards the distance prescribed when the burial-ground is provided under the Public Health (Interments) Act, 1879, see p. 194.

[4] See notes 1 and 2 above.

[5] A sanitary authority proceeding under the Public Health (Interments) Act, 1879, may by means of a provisional order be authorised to put in force the provisions of the Lands Clauses Consolidation Act, 1845, relating to the purchase of lands otherwise than by agreement. (See p. 195.)

as may be required for the purposes of a burial-ground upon giving six months' notice.

Council may appropriate land belonging to borough (Burial Act, 1854, Sec. 11).

The town council of any borough may appropriate for the purposes of the Burial Acts any land belonging to the body corporate of the borough, or vested in any feoffees, trustees, or others for the general use of the borough, or for any specific charity; provided that where any land so appropriated is subject to any charitable use it may be taken only on such conditions as the Chancery Division [1] in the exercise of its jurisdiction over charitable trusts shall direct and appoint.

Power to appropriate parish land, &c. (Sec. 29).

A burial board may, with the approval [2] of the vestry and the guardians of the parish, if any, and the Local Government Board, from time to time appropriate for the purposes of a burial-ground for such parish, either alone or jointly with any other parish or parishes, any land vested in such guardians or in the churchwardens, or in the churchwardens and overseers of the parish, or in any feoffees, trustees, or others for the general benefit [3] of the parish, or for any specific charity; but where any land so taken and appropriated is subject to any charitable use, such lands may be taken only on such conditions as the Chancery Division [1] in the exercise of its jurisdiction over charitable trusts shall appoint and direct.

Power of burial board to lay out burial-ground and build a chapel for the performance of burials according to the rites of the Established Church (Sec. 30).

A burial board may lay out and embellish any burial-ground provided by them in such manner as may be fitting and proper, and may build on any land to be purchased or appropriated for a burial-ground under the Burial Acts, and according to a plan to be approved of by the bishop of the diocese, a chapel for the performance of the burial service according to the rites of the Church of England; and such burial-ground may be consecrated by the bishop when the same appears to him to be in a fit and proper condition for the purposes of interment; but in providing any burial-ground the burial board, except in the case referred to below, or where the ratepayers resolve unanimously that the new burial-ground shall be held and used in the same manner as the existing burial-ground or churchyard, must set apart a portion thereof, which shall not be consecrated, and may build thereon one or more suitable chapels for the performance of funeral service.

New burial-grounds to be divided into consecrated and unconsecrated parts (Burial Act, 1853, Sec. 7).

In all cases in which a burial board provides a new burial-ground under the Burial Acts, such ground must, except in the case above mentioned, be divided into consecrated and unconsecrated parts, in such proportions, and the unconsecrated part thereof must be allotted in such manner, and in such portions, as may be sanctioned by the Secretary of State.

If ratepayers resolve, land for new burial-ground may be conveyed and settled as the existing burial-ground or churchyard (Burial Act, 1855, Sec. 10).

If the ratepayers assembled at any vestry [4] duly convened under he provisions of the Burial Act, 1855, in pursuance of notice duly given on that behalf, resolve unanimously that any new burial-ground to be provided for their parish under the provisions of that Act shall be held and used in like manner and subject to the same laws and regulations in all respects as the existing burial-ground or churchyard of the parish, the land for such new burial-ground may be conveyed and settled in accordance with such resolution; and in such case it will not be necessary to set apart any portion of the land to remain

[1] The application to the court should have the sanction of the Charity Commissioners. (*Ex parte The Watford Burial Board*, 2 Jur. N. S. 1045).

[2] See notes 1 and 2 on preceding page.

[3] Lands held for the benefit of some only of the poor of the parish will not come within these words. (*In re Egham Local Board*, 3 Jur. N. S. 957).

[4] See note 2 on the preceding page.

unconsecrated. But if at any time within ten years thereafter the vestry[1] determine that an unconsecrated burial-ground shall also be provided for the parish, such unconsecrated burial-ground may be provided accordingly.

In what cases, where chapel is provided on consecrated part, it is not obligatory to provide chapel on unconsecrated part of burial-ground (Sec. 14).

Doubts having arisen whether a burial board was not bound in all cases where it had provided a chapel for the burial service according to the rites of the Church of England to build one or more chapels upon the unconsecrated part of such burial-ground, for the performance of burial services for persons not being members of that Church, Section 14 of the Burial Act of 1855 provided that in any such case where it should appear to the Secretary of State, upon the representation of a majority of the vestry of any parish, consisting of not less than three-fourths of the members, that the building of a chapel upon the unconsecrated part for the use of persons not being members of the Church of England was undesirable and unnecessary, it should be lawful for him, if he should think fit, to signify his opinion to that effect to the burial board, who should thereupon be relieved from all obligation to build the same.

Burial-ground to be the burial-ground of the parish or parishes for which it is provided (Sec. 32).

After the consecration of the burial-ground it will be deemed to be the burial-ground of the parish or parishes for which it is provided, and every incumbent or minister of such parish or parishes will by himself or his curate, or such duly qualified persons as he may authorise, perform the duties and have the same rights and authorities for the performance of religious service in the burial therein of the remains of his parishioners, and be entitled to receive the same fees in respect of such burials, as he has previously enjoyed and received; and the parishioners will have the same rights of sepulture on such burial-ground as they would have had in the burial-ground or grounds in and for their respective parishes subject to the provisions contained in the Act.

Rights of parishioners to sepulture.

Payments for interments; exclusive rights of burial; vaults; right to erect monuments, &c. (Burial Act, 1852, Secs. 33, 34).

Burial Act, 1855, Sec. 7.

The Act empowers the burial board to sell exclusive rights of burial and the right to erect monuments, but out of the fees and payments in respect of these sales in the consecrated part of the burial-ground there will be payable to the incumbent such fees or sums as have been settled and fixed by the vestry with the approval of the bishop; or if no such fees have been settled, as the incumbent would by law or custom have been entitled to on the grant of the like rights in the burial-ground of his parish. The burial board must fix the fees and payments for interments in the burial-ground, and for exclusive rights of burial and for vaults, and the right to erect monuments, and place a table showing such fees and payments in a conspicuous part of the burial-ground. These fees must be approved by the Secretary of State.

General management, &c., of burial-ground (Burial Act, 1852, Sec. 38).

The general management, regulation, and control of the burial-grounds provided under the Burial Acts are subject to the provisions in those Acts and to the regulations to be made thereunder vested in the burial board.

Protection of burial-ground (Sec. 40).

The provisions of the Cemeteries Clauses Act, 1847, with respect to the protection of the cemetery, are incorporated with the Burial Acts, and are applicable to any burial-ground provided thereunder. They impose penalties on persons damaging or committing nuisances in the cemetery.

Subject to the provisions of the Burial Acts, and to any regulations

[1] See note 2, p. 239.

Arrangements for facilitating conveyance of bodies to burial-grounds (Sec. 41).

made thereunder, any burial board may make such arrangements as it may from time to time think fit for facilitating the conveyance of the bodies of the dead from the parish or place of death to the burial-ground provided under the Burial Acts, or to any other place of burial; and cemetery companies may undertake and carry into effect any such arrangements.

Places for the reception of dead bodies until interment (Sec. 42).

Subject to the provisions of the Burial Acts, and to any regulations made thereunder, any burial board,[1] with the approval[2] of the vestry, may hire, take on lease, or otherwise provide fit and proper places[3] in which bodies may be received and taken care of previously to interment, and may make arrangements for the reception and care of the bodies to be deposited therein; and for providing such places burial boards may exercise the powers[4] vested in them under the Burial Acts for providing burial-grounds.

Transfer to burial boards of burial-grounds provided under the Church Building Acts (Burial Act, 1857, Sec. 7).

Where a burial-ground has been provided for any parish under the Church Building Acts, and the same has been consecrated, and any money expended in providing it has been borrowed on the security of the church rates, the incumbent of the parish, with the consent of the Ordinary and the burial board, may transfer the ground to the burial board in consideration of the payment of the debt by them; and the burial board may, with the approval of the vestry, enlarge the burial-ground by the addition of ground to be used for burials otherwise than according to the rites of the Church of England.

Power of urban authorities who are constituted burial boards to make bye-laws (Local Government Act, 1858, Amendment Act, 1861, Sec. 21).

By Section 21 of the Local Government Act, 1858, Amendment Act, 1861, as re-enacted by Section 343 of the Public Health Act, 1875, every urban sanitary authority constituted a burial board may from time to time pass bye-laws (subject to the provisions[5] of the last-mentioned Act) for the preservation and regulation of all burial-grounds within their jurisdiction.

Register of burials to be kept (Burial Act, 1853, Sec. 8).

All burials within any burial-ground provided under the Burial Acts must be registered in a register-book to be provided by the burial board and kept for that purpose, according to the laws in force by which registers are required to be kept by the rectors, vicars, and curates of parishes or ecclesiastical districts in England; and copies or transcripts of such register-books must from time to time be sent to the registrar of the diocese, to be kept with the copies of the other register-books of the parishes within the diocese.

IV. EXPENSES OF BURIAL BOARDS

Application of income from burial-ground (Burial Act, 1852, Sec. 22).

The income from the burial-ground, except fees payable to the incumbent, clerk, and sexton, is applicable towards paying the expenses of the burial board. The surplus profits, if any, are to be paid to the overseers in aid of the poor-rate. A burial-ground is seldom productive of profit to the ratepayers, but usually it is to a great extent self-supporting.

Expenses to be paid out of poor rate (Sec. 19),

The expenses of the burial board appointed for a parish, so far as they are not met by income from the burial-ground, are as a

[1] These powers are given in the metropolis to the churchwardens and overseers of any parish for which a burial board has not been appointed.

[2] See notes 1 and 2, page 239.

[3] As to the powers and duties of sanitary authorities with respect to the provision of mortuaries, see pp. 191 to 193.

[4] As to these powers, see pp. 239 to 241.

[5] With reference to the provisions of the Public Health Act relating to bye-laws, see note 2, page 33.

general rule chargeable on the poor rate;[1] but, so far as they are incurred in providing and laying out a burial-ground and building the necessary chapel or chapels thereon, they must not exceed the sum authorised by the vestry[2] to be expended for such purposes. The burial board may also, with the sanction of the vestry[2] and the approval of the Treasury, borrow for these purposes, on the security of the poor rates,[3] the money so borrowed being required to be repaid either by a terminable annuity within thirty years, or by means of a sinking fund, into which one-fiftieth part of the money borrowed is to be paid each year.

or by borrowing (Sec. 20).

Burial Act, 1857, Secs. 19–21.

The vestries of any parishes which have respectively resolved to provide burial-grounds under the Burial Acts may concur in providing one burial-ground for the common use of such parishes, and may agree as to the proportions in which the expenses of the burial-ground shall be borne by such parishes, and the burial boards for such parishes will thereupon act as a joint burial board.

Joint burial boards (Burial Act, 1853, Sec. 23).

Where it appears to her Majesty in Council that any parish wholly or partly situate in any borough is provided with a sufficient burial-ground, the Order in Council enabling the town council to provide a burial-ground may direct that no part of such parish shall be assessed towards defraying the expenses of executing the Act in the borough, in which case no burial-ground provided for the borough under the Act will be deemed to be provided for such parish.

Parish or borough already provided with sufficient burial-ground not to be assessed for provision of burial-ground for other parishes (Burial Act, 1854, Sec. 9).

V. POWERS OF SECRETARY OF STATE AS REGARDS REGULATION, INSPECTION, ETC., OF BURIAL-GROUNDS

The Secretary of State may from time to time make regulations in relation to the burial-grounds and places for the reception of dead bodies previously to interment provided under the Burial Acts for the protection of the public health and the maintenance of public decency, and burial boards and all other persons having the care of such burial-grounds and places must conform to and obey such regulations.

Regulations of Secretary of State as to burial-grounds (Sec. 44).

Under the above enactment the following regulations were issued in January 1863 by the Secretary of State:—

1. The burial-ground shall be effectually fenced, and, if necessary, under-drained to such a depth as will prevent water remaining in any grave or vault.

2. The area to be used for graves shall be divided into grave spaces, to be designated by convenient marks, so that the position of each may be readily determined, and a corresponding plan kept on which each grave space shall be shown.

3. The grave spaces for the burial of persons above twelve years of

[1] Where the town council are the burial board the expenses are payable out of the borough fund and borough rates, unless the burial-ground is provided for part of the borough only, in which case they are payable out of a separate rate levied in such part only. Where a local board or improvement commissioners are the burial board, they may, if the local board or improvement commissioners think fit, be paid out of the general district rate or improvement rate, as the case may be, or out of a separate rate, called the burial rate, and levied in like manner as the general district rate or improvement rate.

Burial Act, 1854, Secs. 3 and 9.

Burial Act, 1860, Secs. 1 and 2.

[2] See notes 1 and 2, page 239.

[3] In the case of a borough on the security of the borough rate, or separate rate out of which the expenses of the town council as a burial board are payable, and in the case of an Improvement Act district on the security of the improvement rate or burial rate.

Burial Act, 1854, Sec. 3. Burial Act, 1862, Sec. 1.

age shall be at least 9 feet by 4 feet; and those for the burial of children under twelve years of age, 6 feet by 3 feet, or, if preferred, half the measurement of the adult grave space—namely, 4½ feet by 4 feet.

4. A register of graves shall be kept in which the name, age, and date of burial in each shall be duly registered.

5. No body shall be buried in any vault or walled grave unless the coffin be separately entombed in an airtight manner; that is, by proper cemented stone or brickwork, which shall never be disturbed.

6. One body only shall be buried in a grave at one time, unless the bodies be those of members of the same family.

7. No unwalled grave shall be reopened within fourteen years after the burial of a person above twelve years of age, or within eight years after the burial of a child under twelve years of age, unless to bury another member of the same family, in which case a layer of earth not less than 1 foot thick shall be left undisturbed above the previously buried coffin; but if on reopening any grave the soil be found to be offensive, such soil shall not be disturbed, and in no case shall human remains be removed from the grave.

8. No coffin shall be buried in any unwalled grave within 4 feet of the ordinary level of the ground, unless it contains the body of a child under twelve years of age, when it shall not be less than 3 feet below that level.

Secretary of State may direct inspection of burial-grounds (Burial Act, 1855, Sec. 8).

The Secretary of State may also from time to time appoint and authorise any person to inspect any burial-ground or cemetery, parochial or non-parochial, or place for the reception of dead bodies, to ascertain the state and condition thereof, and where regulations in relation thereto have been made by the Secretary of State under the Burial Acts, to ascertain whether they have been observed.

Penalties for obstructing inspector, or breach of regulations.

Penalties not exceeding 10*l.*, recoverable summarily, are imposed on persons having the care of any such burial-ground or cemetery who obstruct the inspector, and on persons having the care of the burial-ground, or place for the reception of dead bodies, who violate, or neglect, or fail to observe any regulations made by the Secretary of State in relation thereto.

Regulations as to burials in common graves in cemeteries provided under local Acts (Burial Act, 1857, Sec. 10).

The Secretary of State may further make regulations, enforceable by penalties recoverable summarily and not exceeding 10*l.*, for the protection of the public health and for the maintenance of public decency in respect of all burials in common graves in any cemetery established under the authority of any local Act of Parliament.

Bodies not to be removed from burial-grounds save under faculty without licence of Secretary of State (Burial Act, 1857, Sec. 25).

Except where a body is removed from one consecrated place of burial to another by faculty granted by the Ordinary, no body, and no remains of any body which may have been interred in any place of burial may be removed without the licence of the Secretary of State, or without such precautions as the Secretary of State may prescribe as the conditions for such licence. A penalty of 10*l.*, recoverable summarily, is imposed on any person who acts in contravention of this enactment.

VI. DISUSED BURIAL-GROUNDS

Disused burial-grounds.

The powers and duties of sanitary authorities in connection with disused burial-grounds have already been described.[1] The following are the provisions in the Burial Acts relating to these places:—

[1] See pp. 197 and 198.

In every case in which an Order in Council has been issued for the discontinuance of burials in any churchyard or burial-ground, the burial board or churchwardens, as the case may be, must maintain such churchyard[1] or burial-ground in decent order, and do the necessary repair of the walls and other fences thereof at the cost of the poor rate, unless there is some other fund legally chargeable with the cost.

Duty of churchwardens or burial board to maintain closed churchyard or burial-ground (Burial Act, 1855, Sec. 18).

The vestry of any parish containing any burial-ground closed by Order of Council which does not belong to the parish may purchase such burial-ground, and from the time of purchase such burial-ground will belong to the parish, and be subject to all the conditions affecting the burial-grounds of the parish in which the same is situate.

Power of vestry to purchase closed burial-ground not belonging to the parish (Burial Act, 1857, Sec. 8).

In all cases in which unconsecrated lands or buildings are vested in one or more trustees for the purposes of a cemetery or burial-ground, and burials therein have by Order in Council been directed to be wholly or partially discontinued, such trustee or trustees may, with the sanction of the Secretary of State,[2] let any part or parts thereof in which no interment has taken place, and renew or accept surrenders of any leases or tenancies thereof, and sell and absolutely dispose thereof.

Power of trustees of closed cemeteries or burial-grounds, with sanction of Secretary of State, to let or sell portions thereof which have not received interment (Sec. 24).

Where any cemetery in which burials have by Order in Council been directed to be discontinued is adjoining or near to any land appropriated or about to be appropriated by any burial board for the purposes of a burial-ground, and appears to such board to be eligible for the purpose of appropriating or erecting buildings for or making approaches to such burial-ground, such burial board may, with the approval of the vestry or respective vestries, purchase the cemetery. But notwithstanding such purchase, such Order in Council will remain in full force and effect in relation to such cemetery.

Power of burial boards in certain cases to purchase cemeteries which have been closed (Sec. 26).

[1] If it has been provided by the burial board it will be for them to maintain it. If it has not been so provided, and is under the care of churchwardens under vestries, the duty will devolve on the churchwardens.

[2] As to the prohibition of building on disused burial-grounds, see p. 197.

PART VIII

THE VACCINATION LAWS

The Vaccination Laws. Their object.

The law relating to vaccination in England and Wales is contained in the Vaccination Acts, 1867, 1871, and 1874, and in certain rules, orders, and regulations which have been issued under these Acts and the Public Health Act, 1858, by the Poor-law Board, the Privy Council, and the Local Government Board.

The object of the Vaccination Laws is to secure the effectual vaccination of every child as soon as conveniently may be after its birth. With this object (1) they impose on the parent or other person having the custody of the child the duty of causing the child to be vaccinated, unless it can be shown to be unfit for vaccination or insusceptible of successful vaccination; (2) they require due notice to be given by the registrar of births and deaths of the requirements of the law in this respect to the parent or person responsible for the vaccination of the child; and (3) they establish in every district the necessary administrative machinery for the performance of gratuitous public vaccination at the cost of the ratepayers, and for the enforcement of the law and the recovery of penalties in the event of the child not being vaccinated in accordance with their requirements.

Vaccination authorities.

Notwithstanding the intimate relations which exist between vaccination and the public health, sanitary authorities have no powers or duties in connection with the administration of the Vaccination Laws, the local authorities for this purpose being alike in the metropolis and the rest of the country the guardians of the several Poor-law unions and parishes under the control of separate boards of guardians.

Vaccination districts (Vaccination Act, 1867, Sec. 2).

The guardians have been required to divide these unions and parishes, except in cases where they are so limited in area as not to require subdivision, into districts for the performance of vaccination, the approval of the Local Government Board or their predecessors having in every case been necessary to the proposals of the guardians in respect of these divisions. Subject to the approval of the Local Government Board, these districts may from time to time be altered by the guardians, and the Local Government Board may by their order require any of them to be consolidated or otherwise altered.

Public vaccinators (Vaccination Act, 1867, Sec. 3).

The guardians must from time to time enter into a contract,[1] to be approved by the Local Government Board, with some duly qualified medical practitioner for the performance of vaccination of all persons resident within each of these districts. The practitioners with whom these contracts are made are termed public vaccinators.

The guardians must also provide all stations at which the vaccina-

[1] As to the manner in which this duty may be enforced, see p. 251.

tion is appointed to be performed, other than the surgery or residence of the public vaccinator.

Vaccination stations (Vaccination Act, 1867, Sec. 7).

The guardians must appoint and pay one or more officers to prosecute persons charged with offences against[1] the Vaccination Acts, and otherwise to enforce the provisions of those Acts. These officers are called vaccination officers. Unless the Local Government Board otherwise direct, the district of each vaccination officer must coincide either with one or more vaccination districts, or with one or more districts of a registrar of births and deaths.

Vaccination officers (Vaccination Act, 1871, Sec. 5).

The vaccination officers receive from the registrars of births and deaths notices of all births of children and of all deaths of children under twelve months of age occurring in their districts, and from public vaccinators or other medical practitioners certificates of every case of successful vaccination, and of unfitness for vaccination, and of insusceptibility of successful vaccination. They are thus furnished with the necessary information for enabling them to ascertain to what extent the Vaccination Laws are complied with in their districts.

Notices and certificates sent to vaccination officers (Vaccination Act, 1867, Secs. 21 and 23; Vaccination Act, 1871, Sec. 8).

The above is a general outline of the system of the local administration embodied in the Vaccination Laws for the performance and enforcement of public vaccination. It will now be convenient to deal in detail with—

I. The duties in relation to vaccination which are imposed on parents and other persons having the custody of children;

II. The powers and duties of boards of guardians in connection with public vaccination and the enforcement of the Vaccination Laws;

III. The tenure of office, qualifications, duties, and remuneration of public vaccinators;

IV. The duties and remuneration of registrars of births and deaths under the Vaccination Act, 1867; and

V. The nature and tenure of office, duties, powers, and remuneration of vaccination officers.

I. DUTIES IN RELATION TO VACCINATION IMPOSED ON PARENT AND OTHER PERSONS HAVING THE CUSTODY OF CHILDREN

Duties of the public as regards the vaccination of children (Vaccination Act, 1867, Secs. 15 and 35).

The parent of every child born in England or Wales is required within three[2] months after its birth to take it, or cause it to be taken, to the public vaccinator of the vaccination district in which it is then resident to be vaccinated, or else to cause it to be vaccinated by some registered medical practitioner. When by reason of the death, illness, absence or inability of the parent, or other cause, any person other than the parent has the custody of the child, he or she is required, within three months of receiving its custody, to take the same steps for securing its vaccination that the parent would otherwise have been required to take.

Inspection of child seven days after vaccination by public vaccinator (Sec. 17).

When the operation has been performed by the public vaccinator, the parent or other person having the custody of the child must, on the same day in the following week, again take the child, or cause it to be taken, to him or to his deputy, that he may inspect it and ascertain the result of the operation, and, if he see fit, take lymph from it for the performance of other vaccinations; and in the event of

[1] See p. 257 as to the proceedings taken in the Keighley case, where the guardians refused to perform this duty.

[2] This period has been enlarged in cases where vaccination is only performed half-yearly at the vaccination stations. See p. 253.

the vaccination being unsuccessful such parent or other person must, if the vaccinator so direct, cause the child to be again vaccinated and inspected, as on the previous occasion.

Certificate of successful vaccination to be sent to vaccination officer (Vaccination Act, 1867, Secs. 21 and 23; Vaccination Act, 1871, Sec. 7).

Where the vaccination has been successfully performed by a registered medical practitioner not being a public vaccinator, such practitioner, after he has ascertained that the operation has been successfully performed, must deliver to the parent or other person causing the child to be vaccinated a certificate [1] of successful vaccination in the proper form, and duly filled up and signed by him, and such parent or person must transmit this certificate, by post or otherwise, within seven days to the vaccination officer. Where the operation has been performed by the public vaccinator, it is his duty to send the certificate within seven days to the vaccination officer; but he must also, upon request, deliver a duplicate certificate to the parent or other person who has caused the child to be vaccinated.

Where child is unfit for vaccination (Vaccination Act, 1867, Sec. 18).

If any public vaccinator or registered medical practitioner is of opinion that the child is not in a fit and proper state to be successfully vaccinated, he must forthwith deliver to the parent or other person having the custody of the child a certificate [2] under his hand that the child is then in a state unfit for successful vaccination. This certificate will remain in force for two months, and will be renewable for successive periods of two months until a public vaccinator or medical practitioner deems the child to be in a fit state for successful vaccination. When this time arrives the Act requires that the child shall with all reasonable despatch be vaccinated, and that the certificate of successful vaccination shall be duly given, if warranted by the result.

Successive certificates (Sec. 19).

At or before the end of each of the successive periods above referred to the parent or other person having the custody of the child must take or cause it to be taken to some public vaccinator or medical practitioner, who must then examine the child, and give the required certificate in the prescribed form so long as he deems requisite under the circumstances of the case.

Insusceptibility of successful vaccination (Sec. 20).

If any such public vaccinator or medical practitioner finds that a child whom he has three times unsuccessfully vaccinated is insusceptible of successful vaccination, or that a child brought to him for vaccination has already had the small-pox, he must deliver to the parent

[1] This certificate should be in the following form, prescribed by the Order of the Local Government Board of November 30, 1871, or to the like effect:—

The Vaccination Acts, 1867 and 1871. Form (D). Medical Certificate of Successful Vaccination. I, the undersigned, hereby certify that the child of aged born at in the parish (township) of in the county (borough) of has been successfully vaccinated by me. Dated this day of 18 .

(*Signed*)

Public Vaccinator of the (Union) Parish of
or Medical Practitioner duly registered.

[2] This certificate should be in the following form, also prescribed by the above-mentioned Order of November 30, 1871, or to the like effect: —

The Vaccination Acts, 1867 and 1871. Form (B). Medical Certificate of Postponement of Vaccination. I, the undersigned, hereby certify that I have this day examined the child of aged born at in the parish (township) of in the county (borough) of and am of opinion that the said child is in the following state of health, namely, and is, therefore, not in a fit and proper state to be successfully vaccinated. I do hereby postpone the vaccination until the day of 18 .

(*Signed*)

Public Vaccinator of the Union (Parish) of
or Medical Practitioner duly registered.

or other person having the custody of the child a certificate [1] under his hand, stating the number of times that the child has been unsuccessfully vaccinated by him, and that the child is, in his opinion, insusceptible of successful vaccination, and the parent or other person having the custody of the child is thenceforth relieved of the obligation of causing the child to be vaccinated.

Penalties (Sec. 29).

Every parent or other person having the custody of the child who neglects to take it, or cause it to be taken, to be vaccinated, or after vaccination to be inspected, according to the provisions of the Act, and does not render a reasonable excuse for his neglect, is guilty of an offence, and is liable to be proceeded against summarily, and upon conviction to pay a penalty not exceeding twenty shillings.

Vaccination Act, 1871, Secs. 7 and 10.

Similar penalties are imposed on persons neglecting to transmit within the specified time any certificate required to be transmitted by the provisions of the Act to the vaccination officer, or preventing any public vaccinator from taking lymph from any child as provided by Section 17 of the Act of 1867. Under these provisions proceedings can only be taken once, and a single penalty recovered.

Vaccination Act, 1867, Sec. 31.

Vaccination Act, 1871, Sec. 11.

But under Section 31 of the Act of 1867 (amended by Section 11 of the Act of 1871) it has been held [2] that proceedings may be instituted, *toties quoties*, so long [3] as the disobedience continues. The effect of this section as amended is to provide that, if any vaccination officer shall give information in writing to a justice of the peace that he has reason 'to believe that any child under the age of 14 years, who, or whose parent, or the person having the custody of the child, is within the union or parish for which the informant acts, has not been successfully vaccinated, and that he has given notice to the parent, or person having the custody of the child, to procure its being vaccinated, and that this notice has been disregarded, the justice may summon such parent or person to appear with the child before him at a certain time and place, and upon the appearance if the justice finds, after such examination as he deems necessary, that the child has not been vaccinated nor has already had the small-pox, he may, if he see fit, make an order under his hand and seal directing such child to be vaccinated within a certain time; and if at the expiration of such time the child has not been so vaccinated, or is not shown to be then unfit to be vaccinated, or to be insusceptible of vaccination, the person upon whom the order has been made must be proceeded against summarily, and unless he can show some

[1] This certificate should be in the following form, prescribed by the Local Government Board's Order of November 30, 1871, or to the like effect:—

The Vaccination Acts, 1867 and 1871. Form (C). Medical Certificate of Insusceptibility of Successful Vaccination, or of child having had small-pox. I, the undersigned, hereby certify that the child of aged born at in the parish (township) of in the county (borough) of [has been times unsuccessfully vaccinated by me, and is in my opinion insusceptible of successful vaccination] or [has already had small-pox]. Dated this day of 18 .

(*Signed*)

Public Vaccinator of the Union (Parish) of

or Medical Practitioner duly registered.

[2] See *Allen* v. *Worthy*, 39 L. J. (N. S.) M. C. 36; 21 L. T. (N. S.) 665; L. R. 5 Q. B. 163.

[3] But the proceedings must be taken within twelve months after the offence has been completed—i.e. after the notice requiring the parent to procure the vaccination of the child has been disregarded. Consequently, if a notice has been disregarded for a year another notice must be given if fresh proceedings are intended to be taken. *Knight* v. *Halliwell* (L. R. 9 Q. B. 412; 43 L. J. (N. S.) M. C. 113; 30 L. T. (N. S.) 359.

reasonable ground for his omission to carry the order into effect, he will be liable to a penalty not exceeding twenty shillings. If, however, the justice shall be of opinion that the person is improperly brought before him, and shall refuse to make any order for the vaccination of the child, he may order the informant to pay to such person such sum of money as he shall consider to be a fair compensation for his expenses and loss of time in attending before the justice.

Where any parent of a child fails to produce the child when requested to do so by any summons under the Act of 1867, he or she is liable on summary conviction to a penalty not exceeding twenty shillings.

Time within which proceedings may be brought.

Any complaint may be made and any information laid for an offence under the Vaccination Acts 1867 and 1871 at any time not exceeding twelve months from the time when the matter of such complaint or information arose, and not subsequently.

Where person charged is not guilty, but has neglected to transmit certificate.

Where a person is charged with the offence of neglecting to take or cause to be taken any child to be vaccinated, and on the defence made by such person it appears to the justices having cognisance of such case that such person is not guilty of such offence but has been guilty of not transmitting any certificate required by the Act of 1867 or the Act of 1871 with respect to the vaccination of such child, the justices may convict him or her of the last-mentioned offence in the like manner as if he or she had been charged therewith.

Appearance of defendant.

The defendant in any proceedings under either of the above-mentioned Acts may appear by any member of his family or any other person authorised by him in this behalf.

Punishment for inoculating with small-pox (Vaccination Act, 1867, Sec. 32).

The above are the provisions relating to the enforcement of penalties for neglecting to cause children to be vaccinated. The Act of 1867 (Section 32) also makes it an offence, for which any person is liable to be proceeded against summarily, and upon conviction to be imprisoned for any term not exceeding one month, to produce in any person by inoculation with variolous matter, or by wilful exposure to variolous matter, or to any matter, article, or thing impregnated with variolous matter, or wilfully by any other means whatsoever to produce the disease of small-pox in any person.

II. THE POWERS AND DUTIES OF BOARDS OF GUARDIANS IN CONNECTION WITH VACCINATION

The duties of boards of guardians in relation to the division of the areas under their jurisdiction into vaccination districts, the employment of public vaccinators, the appointment of vaccination officers, and the provision of vaccination stations, have already been briefly indicated (pp. 246 and 247).

Alteration of vaccination districts (Vaccination Act, 1867, Secs. 2 and 3).

The guardians may, with the approval of the Local Government Board, from time to time, as they find it expedient, alter the existing vaccination districts ; and the Local Government Board may by their order require any districts for the time being to be consolidated or otherwise altered. In the event of any such order being given, the guardians are required by Section 2 of the Act of 1867 to proceed to consolidate or alter the districts, and in every such case of division, consolidation, or alteration to report their proposals to the Local Government Board for their approval, which Board may approve or disapprove of the same as they see fit. If they disapprove of the proposal, the guardians must forthwith proceed to prepare another and

submit it for approval, and so on from time to time until their proposal is approved.

Considerations to be borne in mind in alterations of vaccination districts.

With reference to the principles which should guide the guardians in making any proposals under these provisions, it may be well here to state what have been the views of the Local Government Board and their predecessors on this question.

In a circular of the late Poor-law Board, dated the 20th February 1869, it is stated that 'the Board are informed that it is of essential importance to the success and efficacy of the operation that vaccination should, as far as possible, be performed from arm to arm of the children, instead of by means of preserved lymph.' . . . . 'The best vaccination is therefore to be obtained when attendances are given at weekly intervals, and when the children brought to be vaccinated are met by a sufficient number of the children vaccinated the week before from whom some can be selected to furnish lymph.' It follows from the above considerations that the performance of public vaccination may be very injuriously affected by the unnecessary subdivision of unions into vaccination districts, and with a view to the prevention of the evils arising from this cause the Privy Council recommended 'that, as opportunity offers, especially in urban unions and parishes, all unnecessary subdivision of public vaccination among many districts or stations be discontinued, and that in populous towns, unless under special circumstances, subdivision be not made beyond the point where each vaccinating station will have annually at least 500 applicants for vaccination.'

Subsequently, by their Regulations dated the 18th of February, 1868 (which are still in force), the Privy Council directed that 'no part of the metropolis, or of any city, or municipal borough, or town corporate, or other town, shall in respect of any future contract form by itself, or with any rural place, a separate district for vaccination, except with the approval of the Privy Council,[1] unless it contain an estimated population of at least 25,000 persons, or else be as much of the metropolis, city, borough, or town as is for the purposes of vaccination under the control of the Board of Guardians.'

Notice to be given of alteration in districts (Vaccination Act, 1867, Sec. 13).

When the guardians make any alteration in a vaccination district, or otherwise in the local arrangements for vaccination, they must give public notice of such alteration by printed papers to be affixed in the districts affected by such alteration for one month prior to such alteration taking effect.

Guardians to enter into contracts with public vaccinators (Vaccination Act, 1867, Sec. 3).

When a vaccination district has been approved, the guardians are required to enter into a contract with some duly registered medical practitioner as public vaccinator for the performance of vaccination of all persons resident within the district, and when any contract determines they must enter into another one, subject to the approval of the Local Government Board.

The Dewsbury case.

This duty is enforceable by mandamus. In July, 1883, two vaccination contracts with the Dewsbury Board of Guardians having been determined, the one by the death and the other by the resignation of the public vaccinator, and the guardians having failed to enter into others, the Local Government Board applied for a mandamus to the Queen's Bench Division, and a rule *nisi* was granted. When the case came on again for hearing, on July 24, 1884, on the application to make the rule absolute, two of the guardians appeared in person to

[1] Now the Local Government Board.

show cause why the mandamus should not be made absolute. They urged that, although they had advertised for public vaccinators, no suitable persons had applied for the office, the applicants being in their opinion unsuitable. It was, however, very clearly intimated to them by the court that something more than this was required. 'I think,' said Mr. Baron Huddleston, 'we should require on affidavit a positive assurance that you have endeavoured to get a proper person, not only by advertising, but by inquiries, and that you will be prepared to find out such a person within a reasonable time.' Ultimately the court allowed the guardians a fortnight to enter into the necessary contract. 'Let me tell you,' said Mr. Baron Huddleston, 'we are extending great indulgence to you in not making the rule absolute at once. You are, I may say, in mercy in our allowing you this fortnight.' Mr. Justice Hawkins: 'I am not quite sure that the proper way would not be to make the rule absolute, and stay all proceedings for a fortnight.' Mr. Baron Huddleston: 'I think that would meet the object.' The Solicitor General: 'I think so. It might be, though I should hardly suppose that it will be so, that they will not appoint in a fortnight, and then I might ask for a peremptory mandamus at once.' Mr. Baron Huddleston: 'Certainly.' The result was that the guardians made the necessary appointments on August 1, 1884, and sent the draft contracts for the approval of the Local Government Board on the following day.

Vaccination stations.

It has already been stated [1] that it is the duty of the guardians to provide all stations at which public vaccination is appointed to be performed other than the surgery or residence of the public vaccinator. The expense of providing these stations, and all other expenses incurred by the guardians in respect of vaccination, are charged by the Union Chargeability Act, 1865, on the common fund of the union (28 & 29 Vict. c. 79, s. 1).

Union Chargeability Act, 1865, Sec. 1.

Except where the Local Government Board, for reasons brought to their notice, see fit in regard of any particular district to sanction a system of domiciliary vaccination, every vaccination district must have in it at least one public station appointed for the performance of vaccinations under contract; and in every contract made since February 18, 1868, concerning a vaccination district which is partly or wholly within a town, the appointment [2] within the town of more than a single station for performance of the vaccinations of the district has been prohibited. (Regulations of February 18, 1868.)

Vaccination contracts (Vaccination Act, 1867, Sec. 6).

The contracts entered into by the guardians with the public vaccinators must provide [3] for payment in respect only of the successful vaccination of persons, and so that the rate of payment for primary vaccination shall not be less than the following:—That is to say, for every such vaccination done at an appointed station situated at or within one mile from the residence of the vaccinator, or in the workhouse of the union or parish, not less than one shilling and sixpence; and for every such vaccination done at any station over one mile and under two miles distant from his residence, not less than two shillings; and for every such vaccination done at any station over two miles

Fees for successful vaccination.

[1] See p. 246.

[2] The object of this regulation is to secure that a sufficient number of cases shall be brought together at each performance of public vaccination to ensure a proper supply of lymph for arm-to-arm vaccination.

[3] The contents of the contracts, so far as they relate to the covenants by the public vaccinators, are stated on page 259.

distant from his residence, not less than three shillings; such distance being measured according to the nearest public carriage road. In respect of successful vaccination performed elsewhere than at a station or in the workhouse, the payment must be according to the terms specified in the contract, as approved of by the Local Government Board.

Vaccination to be performed at vaccination station.

In connection with the last of the above provisions it should be mentioned that the regulations of the Privy Council, dated February 18, 1868, direct that, where any station has been provided for a district, no person resident within two miles thereof, and not being an inmate of the workhouse, shall be vaccinated under contract elsewhere than at such station, unless the vaccinator in the particular case be of opinion (which, if so, he is required to note in his register), that for some special reason the person whom he proposes to vaccinate cannot be properly vaccinated at the station.

The object of this regulation is that mentioned in note 2 on the preceding page. With the same object the regulation in question further provides that, 'except under special authorisation from the Privy Council (now the Local Government Board), or in so far as may be expedient at times when there is immediate danger of small-pox, vaccination under contract shall not be appointed to be performed at any station oftener than once a week.'

When vaccination to be performed.

In districts which are not populous it is impossible to keep up weekly vaccinations. In a memorandum dated August 23, 1887, Sir George Buchanan, the medical officer of the Local Government Board, pointed out that, if an attempt were made to keep up vaccination throughout the year at a vaccination station to which 100 or even 200 cases are brought annually, it would be found that, as the births are not equally spread over the whole year, and as accidental circumstances must often interfere with the bringing of children in particular weeks, there would frequently be no cases at all at the station to supply lymph, and in most weeks not a sufficient number of children to enable the vaccinator to make a free selection. 'Hence in districts which are not very populous it is necessary that the performance of public vaccination should be limited to certain periods of the year (quarterly or half-yearly periods), weekly attendances being then given for two, three, or four successive weeks, according to the population for the accommodation of which the particular station is designed.'

To meet the cases of districts where the population is not large enough to enable even quarterly vaccinations to be kept up, Section 12 of the Vaccination Act, 1867, provides that 'the Guardians may, with the consent of the Poor-law Board (now the Local Government Board), provide in districts where the population is scanty or much scattered, or where some peculiar circumstances may render it expedient for them to do so, for the attendance of the public vaccinator at the appointed places after intervals exceeding three months; and if by reason of such interval the vaccination of any child cannot be performed within the respective[1] periods prescribed by that Act, no parent or other person who would otherwise be liable will be liable to any penalty in respect of a neglect to procure the vaccination during such period; but every such parent or other person is bound to procure such vaccination to be performed at the time and place so appointed before the next interval, unless it be otherwise performed by a medical

[1] See pp. 247 and 248.

practitioner, or unless the child be certified to be then in an unfit state for, or insusceptible of, vaccination.

In the memorandum above referred to Sir George Buchanan states that, having regard to weather and to other considerations, the months of April and October will generally be found most suitable for half-yearly vaccination.

Vaccination Act, 1867, Sec. 7.

The guardians must, with the consent of the Local Government Board, make stipulations and conditions [1] in their contracts to secure the due vaccination of persons, the observance of the provisions of the Vaccination Acts with respect to the transmission [2] of the certificate of successful vaccination, and the fulfilment of all other provisions of those Acts on the part of the public vaccinator.

Re-vaccination at public expense, to what extent permissible (Sec. 8).

Section 8 of the Vaccination Act, 1867, authorised the Privy Council (now the Local Government Board) to issue regulations in respect of the re-vaccination of persons who may apply to be re-vaccinated, and provided that, if such regulations were issued, the guardians should pay in respect of every case of successful re-vaccination performed in accordance with such regulations under past or future contracts a sum equal to two-thirds of the fee payable upon each case of successful primary vaccination.

The regulations issued under this section, which are now in force, are contained in an order of the Local Government Board dated February 3, 1888, which provides that re-vaccination by public vaccinators under their contracts shall only be performed when

(1) The applicant, so far as the public vaccinator can ascertain, has attained the age of twelve years, or in case there be any immediate danger of small-pox, the age of ten years, and has not before been successfully re-vaccinated;

(2) In the judgment of the public vaccinator the proposed re-vaccination is not for any sufficient medical reason undesirable; and

(3) The public vaccinator can afford lymph for the purpose without interfering with the performance of primary vaccination in his district.

Provided that in the case of children in a workhouse the public vaccinator may, in any case in which he deems the primary vaccination to have been inadequate, re-vaccinate any child under the age above specified who has not before been successfully re-vaccinated; but he must in every such case enter in his vaccination register a statement of the circumstances which render such re-vaccination desirable.

In this order the expression 'workhouse' includes separate workhouse schools and infirmaries, and the expression 'public vaccinator' includes the medical officer of any workhouse who under a contract performs vaccination therein.

Fee payable by re-vaccinated person where not inspected (Vaccination Act, 1871, Sec. 9).

Where the operation of re-vaccinating any person is performed on the application of such person by the public vaccinator without charge to such person, the public vaccinator must deliver to such person a notice requiring him to attend at the same place on the same day in the following week in order that he may be inspected, and the result of the vaccination ascertained, and stating that in default he will be liable to pay the fee mentioned below, and the public vaccinator must, if required, deliver to the person re-vaccinated a certificate of the result of the operation; and if such person fails to comply with such notice,

[1] These conditions will be found at p. 259.

[2] With reference to the duty of the public vaccinator as regards the transmission of this certificate, see *ante*, p. 248.

or to permit the public vaccinator or his deputy to ascertain the result of the operation, he must pay a fee for such re-vaccination of two shillings and sixpence, which will be a debt from him to the guardians of the union or parish for which the public vaccinator acts; and all such fees are to be paid to, and all expenses of the guardians incurred under this section are to be paid out of, the common fund.

Approval of Local Government Board necessary to the contracts (Vaccination Act, 1867, Secs. 9 and 10).

No contract for vaccination entered into under the Vaccination Acts is valid unless it has been approved by the Local Government Board, and that Board may at their discretion at any time after it has been approved by them determine it either forthwith or at a future day.

No payment in respect of vaccination may be made out of the common fund of any union, or out of the poor rate of any parish, or out of any other public or parochial fund, where the Local Government Board have not approved of a contract for the performance thereof, or after they have determined any such contract; and every payment made contrary to this enactment should be disallowed by the auditor in the accounts of the guardians, or of the overseers, or of any officer who has made the same.

Public vaccinators not to be paid for vaccinations out of their districts (Sec. 11).

Where a district has been assigned to a vaccinator he will not be entitled to be paid a fee in respect of the vaccination or re-vaccination of any child or other person resident out of his district, except in case of a vacancy in the office of vaccinator in any adjoining district, or of the default of the vaccinator therein, of which default notice shall have been given to him in writing by the guardians, or when a relieving officer of his union shall in writing refer any child to him for vaccination.

Power of guardians to pay expenses in connection with vaccination (Sec. 28).

The guardians may pay out of their funds all reasonable expenses incurred by them in causing notices to be printed and circulated as to the provisions of the Vaccination Acts, and on and about inquiries and reports as to the state of small-pox or vaccination in their union or parish, and in taking measures to prevent the spread of small-pox and to promote vaccination upon any actual or expected outbreak of that disease therein.

Appointment of vaccination officers (Vaccination Act, 1871, Sec. 5).

The guardians of every union and parish are required by Section 5 of the Vaccination Act, 1871, to appoint and pay one or more vaccination officers, whose districts, unless the Local Government Board otherwise direct, must coincide with one or more vaccination districts. The same section provided that, subject to the provisions of that Act, the Local Government Board should have the same powers with respect to guardians and vaccination officers as they have with respect to guardians and officers of guardians in matters relating to the relief of the poor, and might make rules, orders, and regulations accordingly; and that all enactments relating to such powers and to such orders, rules, and regulations should apply *mutatis mutandis*. Doubts having been entertained whether under this enactment the Local Government Board were empowered to make rules, orders, and regulations with respect to the proceedings to be taken by the guardians and their officers for the enforcement of the Vaccination Acts, the Vaccination Act of 1874 was passed, which declared that the powers conferred by the enactment referred to should be deemed to extend to and include the making of rules, orders, and regulations prescribing the duties of guardians and their officers in relation to the institution and conduct of the proceedings to be taken for enforcing the provisions of the

Powers of Local Government Board to make regulations with respect to guardians and vaccination officers.

Vaccination Act, 1874.

Vaccination Acts and the payment of the costs and expenses relating thereto.

Regulations of October 31, 1874.

Under the powers thus conferred on them, the Local Government Board, on October 31, 1874, issued an order prescribing regulations to be observed as regards the appointment of vaccination officers by boards of guardians, the tenure of office and the duties and remuneration of such officers, the institution and conduct of the proceedings to be taken for enforcing the provisions of the Vaccination Acts, and the payment of the costs and expenses relating thereto. The following are the regulations in the order which relate to the powers and duties of boards of guardians:—

A sufficient number of vaccination officers to be appointed.

'Where the number of vaccination officers appointed in any union or parish is at any time in the opinion of the guardians or in that of the Local Government Board insufficient for the purpose of securing the due execution of the Vaccination Acts in such union or parish, the guardians shall, in accordance with their own view or on the requisition of the Local Government Board, appoint a sufficient number of such officers.

Power to appoint temporary assistants to the vaccination officer.

'Whenever, in consequence of an extensive outbreak of small-pox or for other cause, it may appear to the guardians to be requisite to provide temporary assistance for any vaccination officer in the discharge of his duties, the guardians may, with the consent of the Local Government Board, appoint one or more assistants to the vaccination officer for such time as the guardians may deem necessary.

Appointment to be made by a majority of guardians voting on the question, and to be reported to the Local Government Board.

'Every appointment of a vaccination officer or assistant vaccination officer shall be made by a majority of the guardians voting on the question, and in the same manner as that in which the guardians are required to appoint other officers or assistants. Every such appointment shall within seven days after it is made be reported to the Local Government Board by the clerk to the guardians.

Vacancies to be reported to the Local Government Board.

'In the event of a vacancy in the office of vaccination officer, the guardians shall report it to the Local Government Board, and shall make a fresh appointment without delay, unless the Local Government Board shall otherwise direct.

Institution and conduct of proceedings.

'The guardians shall, in all cases in which the provisions of the Vaccination Acts for enforcing vaccination have been neglected, cause proceedings to be taken against the persons in default, and for this purpose shall give directions[1] authorising the vaccination officer to institute and conduct such proceedings. But no such directions shall authorise the vaccination officer to take further proceedings under Section 31[2] of the Vaccination Act of 1867 in any case in which an order has already been obtained and summary proceedings have been taken under that section,[3] until he shall have brought the circum-

[1] In the circular letter of the Local Government Board, sent to boards of guardians with these regulations on October 31, 1874, it is stated that the guardians may either give special directions in each individual case of default, or they may give such general directions as will enable the vaccination officers to take proceedings in the first instance and in every case of default, without referring it to them.

[2] As regards this Section, under which proceedings may be taken *toties quoties* so long as the disobedience continues, see p. 249.

Policy of repeated prosecutions.

[3] The following extract from the letter of the Local Government Board to the guardians of the Evesham Union of September 17, 1875, which has been printed as a parliamentary paper (No. 110, Session 1876), explains the object of this regulation, and the views of the Board in relation to repeated prosecutions against persons who have more than once been fined for refusing to have their children vaccinated:—'The intention of this provision is that the guardians should carefully consider with regard to each individual case the effect which a continuance

stances of the case under the notice of the guardians and received their special directions thereon.

'The guardians shall pay the reasonable costs and expenses incurred by any vaccination officer appointed by them in any proceedings taken by him for enforcing the provisions of the Vaccination Acts, and shall charge the same in their accounts in the manner required by law.' Costs of proceedings.

In the well-known Keighley case the Keighley guardians refused to comply with one of the most important of the above regulations, viz., that requiring them to cause proceedings to be taken against persons in default, and to give for this purpose directions to their vaccination officer authorising him to institute and conduct such proceedings. On May 6, 1875, the Local Government Board obtained a rule *nisi* calling on the guardians to show cause why a mandamus should not issue commanding them to give these directions. On the 31st of the same month the rule was made absolute. On January 26, 1876, the court issued a peremptory mandamus requiring the guardians to give the directions. On February 23 the guardians passed a resolution that the necessary directions should be given to the vaccination officer, on the terms of the mandamus, and on March 16 they returned to the mandamus that they had obeyed it. But on May 3 they passed a further resolution, 'to rescind all portions of resolutions which have been or can be construed into a general order to prosecute, and that instructions be given to the vaccination officer of the Keighley vaccination district that this Board reserves to itself the dispensation of the Vaccination Acts.' In consequence of this resolution, the Local Government Board on June 26 applied for and obtained a rule *nisi* against the individual guardians who voted for the last-mentioned resolution, calling upon them to show cause why an attachment should not issue for contempt of court. On July 3 the rule was made absolute, except as regards one of the guardians, who explained that he did not understand the effect of the resolution and was not aware of the mandamus. On August 7 the defendants were arrested by the Sheriff of Yorkshire and imprisoned in York Castle. After a month's imprisonment they obtained bail, the remaining members of the board of guardians having in the meanwhile passed a resolution to restore the instructions to the vaccination officer to the state in which they were when the guardians made their return of obedience to the writ of mandamus. On November 16 the defendants, having pledged themselves not to be parties to any resolutions which would rescind the last-mentioned The Keighley case.

of proceedings is likely to have in procuring the vaccination of the individual child, and in insuring the observance of the law in the union generally.

'The Board may further state that it is, on the one hand, undeniable that a repetition of legal proceedings has, in numerous cases, resulted in the vaccination of a child when such vaccination has not been procured by the previous proceedings; and it is therefore important, with the view of securing a proper observance of the law, that parents should be well assured that proceedings in case of non-compliance with its requirements will not be lightly discontinued. On the other hand, the Board are prepared to admit that, when in a particular case repeated prosecutions have failed in their object, it becomes necessary to carefully consider the question whether the continuance of a fruitless contest with the parent may not have a tendency to produce mischievous results, by exciting sympathy with the person prosecuted, and thus creating a more extended opposition to the law.

'The Board entertain no doubt that, in all cases of the kind in question, the guardians, having before them the preceding observations, will not fail to exercise the discretionary powers confided to them in the manner best calculated to give effect to the policy of the law.'

resolution, which had been passed in obedience to the mandamus, were liberated, at the suggestion of the Solicitor-General on behalf of the Local Government Board, on their own recognisances to come up for judgment when called upon, it being understood that they would never be called up in the event of their not taking any steps, so long as they remained guardians, to interfere with the operation of the Vaccination Acts. At the conclusion of the case Lord Chief Justice Cockburn observed: 'I am very glad that this matter terminates as it does. There can be no doubt whatever that all these defendants are in contempt for the course they have pursued in refusing to obey the peremptory writ of mandamus issuing from this court. I have no doubt they have been actuated by conscientious motives; but it is not for members of a constitutional community like ours to set up their individual judgments against that which is the law of the land . . . . Private individuals, however numerous they may be, cannot be allowed to set up their judgment against that which the Legislature has enacted to be the law of the land. If they do so, they must take the consequences. However, I am glad that this matter has been brought to this issue, in which we are relieved from the necessity of passing the otherwise severe sentence of imprisonment which we should have considered it our duty to impose.'

III. THE TENURE OF OFFICE, QUALIFICATIONS, DUTIES, AND REMUNERATION OF PUBLIC VACCINATORS

Tenure of office of public vaccinators.

The public vaccinator is not, strictly speaking, an officer of the guardians, but merely a medical practitioner who contracts with the guardians to perform public vaccination for them in a vaccination district. In the form of contract prescribed by the Poor law Board, which can only be modified, in any case, with the approval of the Local Government Board, it is provided that the contract may be determined by either of the parties to it on giving the other twenty-eight days' notice in writing.

Qualification of public vaccinators (Vaccination Act, 1867, Sec. 4).

Section 4 of the Vaccination Act, 1867, provided that no person should be appointed a public vaccinator, or act as deputy for a public vaccinator, who should not possess the qualification theretofore prescribed by the lords of her Majesty's Council, or such as should from time to time thereafter be prescribed by them, except where such lords should, upon sufficient cause, sanction the departure from their directions. The qualification prescribed prior to the passing of the Act in question was contained in certain regulations of the Privy Council, dated December 1, 1859. As these regulations have not been superseded by any subsequent regulations prescribed, either of the Privy Council or of their successors the Local Government Board, they are still in force. They provide that, except where the Local Government Board, for reasons brought to their notice, see fit in particular cases otherwise to allow, no person shall in future be admitted as a contractor for vaccination unless he possess the same qualifications as are required by the orders of the Local Government Board as qualifications for a district medical officer, and produce a special certificate given under such conditions as the Local Government Board from time to time fix, by some public vaccinator whom the Local Government Board authorise to act for the purpose, and by whom he has been duly instructed or examined in the practice of vaccination and all that relates

thereto. The production of this special certificate may, however, be dispensed with, if the certificate, or some other which the Local Government Board judge to be of like effect, have been among the certificates or testimonials necessary for obtaining any diploma, licence, or degree, which the candidate possesses. The same regulation provided that all persons then contracted with should be deemed to be qualified to be again contracted with.

The qualifications required by the orders of the Local Government Board in the case of district medical officers are, that they shall be registered under the Medical Act, 1858, and shall be qualified by law to practise both medicine and surgery in England and Wales, such qualification being established by the production to the guardians of a diploma, certificate of a degree, licence, or other instrument granted or issued by competent legal authority in Great Britain or Ireland, testifying to the medical or surgical, or medical and surgical, qualification or qualifications of the officer. See the order of the Poor-law Board, dated December 10, 1859.

Qualifications of deputies of contractors.

The regulations of December 1, 1859, provide that under the same conditions as are appointed for the admission of a contractor, any person qualified to be a contractor may, on the contractor's application, be admitted by the guardians to act as his occasional deputy; but if this admission be not part of the original contract, it must be notified by endorsement upon the contract; and at least fifteen days before it is intended to take effect, a copy of the proposed endorsement, together with all requisite evidence of the qualification of the person whom it is proposed to admit, must be transmitted to the Local Government Board.

Duties of public vaccinators under their contracts.

The first duty of a public vaccinator is to observe the conditions of the contract under which he is employed. In the prescribed form of contract to which reference has already been made,[1] he covenants that he will attend either by himself or some medical practitioner legally qualified for that purpose as his substitute, at the times and places [2] mentioned in a schedule to the contract, or at such other times and places as the guardians shall, with the consent of the Local Government Board, determine and cause to be endorsed on the contract, and that he will then and there duly and according to the requirements of the law vaccinate every person resident in the vaccination district, who shall apply to or be brought to him for the purpose of being vaccinated, and do and perform all such acts and things as to the best of his judgment and in accordance with such requirements shall seem necessary for causing such vaccination to be successfully terminated; that he will vaccinate in like manner any child resident outside his district whom any relieving officer in the union shall in writing refer to him for vaccination; that he will attend at the times and places mentioned in the schedule to the contract to inspect the result of such vaccination; and that he will duly inspect such persons accordingly, and do such acts and give such directions and otherwise treat the cases, as upon such inspection may appear to him necessary. He also agrees to keep a book to be termed 'The Vaccinator's Register,' to be printed for him by the guardians, and as soon as practicable after he shall have vaccinated any person to whom the contract

[1] See p. 252.

[2] As regards the periods for vaccination, see p. 253; and as regards the vaccination stations, p. 252.

applies, and after he has inspected the results of the vaccination of such person, to make the entries respectively applicable to the vaccination and the inspection of the results, described in the form on page 261.

The contract further provides that no fee shall be paid to the public vaccinator in respect of any person, whose name together with the other particulars relating to the case, is not duly entered on the register, except in the case of any omission, which is satisfactorily explained to the guardians; and it requires the public vaccinator, on the day next before the first ordinary meeting of the guardians in every calendar month (or quarter of the year, *as may be agreed upon between the parties*), to deliver or cause to be delivered to their clerk the book in which he shall have made the above entries during the interval preceding such meeting.

Duties of public vaccinator under statute (Vaccination Act, 1867, Secs. 18–22).

The duties of public vaccinators in connection with the transmission of certificates of successful vaccination to the vaccination officers, the delivery of duplicate certificates in regard to the persons who have caused the children to be vaccinated, the giving of certificates that children are not in a fit condition for successful vaccination, or that they are insusceptible of successful vaccination, or that they have had the small-pox, and the delivery of notices to persons re-vaccinated, have already been described (pp. 248 and 254). No fee or remuneration may be charged by the public vaccinator to the parent or person having the custody of the child for any such certificate, nor for any vaccination done under his contract, nor will he be entitled to payment under his contract for any vaccination in respect of which he has been paid by the parent or other person for or on whom it has been performed; and if he should have received payment under his contract he will not be entitled to recover payment for the vaccination from any other person.

Penalty (Sec. 30).

Every public vaccinator who neglects to transmit any certificate required of him by the provisions of the Vaccination Act, 1867, completely filled up and legibly written to the vaccination officer within the time specified by the Act, or who refuses to deliver the duplicate to the parent or other person having the custody of the child, will be liable on summary conviction to a penalty not exceeding twenty shillings.

Duties of public vaccinator under regulations of Local Government Board and their predecessors (Vaccination Act, 1867, Sec. 4).

Public vaccinators are also required to duly observe all such regulations as the Privy Council, or their successors, the Local Government Board, have made or may hereafter make to secure the efficient performance of vaccination and the supply of vaccine lymph by public vaccinators.

Regulations of December 1, 1859.

The regulations of December 1, 1859, to which reference has already been made, provide that all vaccinations and inspections under contract shall be performed by the contractor in person, or by some other contractor of the same union or parish acting for him, or by a deputy, duly admitted:

But, at any station where the contractor is authorised to grant certificates, pupils and others candidates, aged not less than eighteen years, may, in his presence and under his direction, take part in vaccinating.

All vaccinations and inspections under contract must be performed in accordance with the following 'Instructions for Vaccinators under

VACCINATOR'S REGISTER *of the* _____ *District of the* _____ *Union.*

_____, *Public Vaccinator.* _____ *day of* _____, 18 .

1	2	3	4	5		6	7	8	9	10	11	12		13	14		15	
No. of case consecutive to 500 and then to be repeated	Date of Vaccination	Name	In case of Re-vaccination of Adults and Adolescents successfully vaccinated in early Life mark R	Age		Place of Residence	Where Vaccinated [1]	Name or No. in Register of the subject with whose Lymph the Vaccination is performed: or insert N. V. E. if the Lymph be sent by the National Vaccine Establishment; or state other source, if any	Initials of Person performing the Vaccination	When and where inspected	Initials of the Person inspecting	Result		Date of sending Certificate to the Vaccination Officer	Fee due in respect of each case o successful primary Vaccination		Fee due in respect of each case of successful Re-vaccination.	
				Years	Months							Successful	Unsuccessful		*s.*	*d.*	*s.*	*d.*
														Total				

[1] Whether at the Vaccinator's Residence, or at an appointed Station (and if so, which), or where else.

Contract,' prescribed by an order of the Local Government Board, dated February 8, 1887 :—

Regulations of February 8, 1887.

(1) Except so far as any immediate danger of small-pox may require, vaccinate only subjects who are in good health. As regards infants, ascertain that there is not any febrile state, nor any irritation of the bowels, nor any unhealthy state of skin; especially no chafing or eczema behind the ears, or in the groin, or elsewhere in folds of skin. Do not, except of necessity, vaccinate in cases where there has been recent exposure to the infection of measles or scarlatina, nor where erysipelas is prevailing in or about the place of residence.

(2) In all ordinary cases of primary vaccination, make such insertions of lymph as will produce at least four separate good-sized vesicles or groups of vesicles, not less than half an inch from one another. The total area of vesiculation on the same day in the week following the vaccination should be not less than half a square inch.

(3) Direct that care be taken for keeping the vesicles uninjured during their progress, and for avoiding afterwards the premature removal of the crusts. Do not use any needless means of 'protection' or of 'dressing' to a vaccinated arm; but if, in a particular case, you find reason for means of 'protection' or of 'dressing,' define the material and the manner of use of the appliance best adapted to the case, avoiding all such as cannot readily be destroyed and replaced whenever they become soiled.

(4) Enter all cases in your register on the day when you vaccinate them, and with all particulars required in the register up to and including the column headed 'Initials of person performing the operation.' Enter the results on the day of inspection. Each of those entries must be attested by the initials of the person who inspects the case. In cases of primary vaccination, register as 'successful' only those cases in which the normal vaccine vesicle has been produced; in cases of re-vaccination, register as 'successful' only those cases in which either vesicles, normal or modified, or papules surrounded by areolæ, have resulted. When any operation (whether vaccination or re-vaccination) has to be repeated owing to want of success in the first instance, it should be entered as a fresh case in the register.

(5) Endeavour to maintain in your district such a succession of cases as will enable you to vaccinate with liquid lymph directly from arm to arm at each of your contract attendances; and do not, under ordinary circumstances, adopt any other method of vaccinating. To provide against emergencies, always have in reserve some stored lymph; either *dry* on ivory points, thickly charged and constantly well protected from damp; or *liquid*, in fine, short, uniformly capillary (not bulbed) tubes, hermetically sealed at both extremities. Lymph, successfully preserved by either of these methods, may be used without definite restrictions as to time. With all stored lymph caution is necessary, lest in time it have become inert, or otherwise unfit for use.

(6) Consider yourself strictly responsible for the quality of whatever lymph you use or furnish for vaccination. Never either use or furnish lymph which has in it any, even the slightest, admixture of blood. In storing lymph, be careful to keep separate the charges obtained from different subjects, and to affix to each set of charges the name, or the number in your register, of the subject from whom the lymph was derived. Keep such note of all supplies of lymph which you use or furnish as will always enable you to identify the origin of the lymph.

Do not employ lymph supplied by any person who does not keep exact record of its source.

(7) Never take lymph from cases of re-vaccination. Take lymph only from subjects who are in good health, and, as far as you can ascertain, of healthy parentage; preferring children whose families are known to you, and who have elder brothers or sisters of undoubted healthiness. Always carefully examine the subject as to any existing skin disease, and especially as to any signs of hereditary syphilis. Do not take lymph from children who have any sort of sore at or about the anus. Take lymph only from well characterised, uninjured vesicles. Take it at the stage when the vesicles are fully formed and plump. Do not take it from a vesicle around which there is any conspicuous commencement of areola. Open the vesicles with scrupulous care to avoid drawing blood. Take no lymph which, as it issues from the vesicle, is not perfectly clear and transparent, or which is thin and watery. From a well-formed vesicle of ordinary size do not, except under circumstances of necessity, take more lymph than will suffice for the immediate vaccination of five subjects, or for the charging of seven ivory points, or for the filling of three capillary tubes; and from larger or smaller vesicles, take only in like proportion to their size. Never squeeze or scrape or drain any vesicle, and do not use lymph that has run down the skin. Be careful never to transfer blood from the subject you vaccinate to the subject from whom you take lymph.

(8) Scrupulously observe in your inspections every sign which tests the efficiency and purity of your lymph. Note any case wherein the vaccine vesicle is unduly hastened or otherwise irregular in its development, or wherein any undue local irritation arises; and if similar results ensue in other cases vaccinated with the same lymph, desist at once from employing it. Consider that your lymph ought to be changed, if your cases, at the usual time of inspection on the day week after vaccination, show any conspicuous areolæ round their vesicles.

(9) Keep in good condition the lancets or other instruments which you use for vaccinating, and do not use them for any other purpose whatever. When you vaccinate, have water and a napkin at your side, with which invariably to cleanse your instrument after one operation before proceeding to another. Never use an ivory point or capillary tube a second time either for the conveyance or for the storage of lymph; but when points or tubes have once been charged with lymph and put to their proper use, do not fail to break or otherwise destroy them.

Remuneration of public vaccinators (Vaccination Act, 1867, Secs. 6 and 8).

The fees paid to the public vaccinator are payable only in respect of successful vaccinations and re-vaccinations, and will be those specified in his contract. Those payable for primary vaccination may not be less than the minimum fees prescribed by Section 6 of the Vaccination Act, 1867, as to which see p. 252. As to the fees for re-vaccination see p. 255. In addition to these fees awards are made to public vaccinators under the following enactments:—

Awards to public vaccinators (Vaccination Act, 1867, Sec. 5).

Section 5 of the Vaccination Act, 1867, as amended by the Local Government Board Act, 1871, provided that on reports made to the Local Government Board with regard to the number and quality of the vaccinations performed in the several vaccination districts of England, or any of them, that Board might, from time to time, out of moneys provided by Parliament, and under regulations to be approved

by the Lords Commissioners of Her Majesty's Treasury, authorise to be paid to any public vaccinators, in addition to the payments received by them from guardians or overseers, further payments not exceeding in any case the rate of 1*s.* for each child whom the vaccinator had successfully vaccinated during the time to which the award of the Board related.

Now payable by county and borough councils (Local Government Act, 1888, Secs. 24 (2) (*a*) (5) (6)).

Under this section awards were made from the Parliamentary grant to public vaccinators up to March 31, 1889, at which date this grant ceased to be paid by the Government, and in substitution for it the council of each county and county borough in England and Wales was required by Section 24 (2) (*a*) of the Local Government Act, 1888, to charge to the Exchequer Contribution Account, and pay out of the county fund to the public vaccinator of every vaccination district wholly or partly in the county, such sums as the Local Government Board should from time to time certify to be due from the council for payments to public vaccinators under the above-quoted section of the Act of 1867.

The principles on which the amounts due under this section are to be fixed are explained in a memorandum of the Local Government Board, dated February 15, 1886, which, after setting out the provisions of Section 5 of the Act of 1867, and mentioning that the powers of the Privy Council thereunder had been transferred to the Local Government Board, proceeded as follows :—

Principles on which awards are made.

'The inspection of each union or parish, with regard to its proceedings under the Vaccination Acts, is, as a rule, as nearly as practicable, biennial ; the only exceptions being that, in some large towns supplying vaccine lymph to the National Vaccine Establishment, annual inspections are made.

'In pursuance of the above cited enactments, the Local Government Board, on consideration of the periodical reports of their inspectors, will make to public vaccinators whom the Board think deserving of reward payments at such rates, not exceeding 1*s.* per case, as may from time to time be determined by the Board with the approval of the Lords Commissioners of the Treasury. These awards will be made in conformity with the following regulations :—

'I. The Local Government Board will not entertain the question of awarding money to the public vaccinators of any unions or districts where duly approved contracts are not in force, or where contract-arrangements, recommended by the Board to be altered, have nevertheless been continued in operation.

'II. No award will be made to any vaccinator who has not properly complied with the requirements of the statutes, the regulations, and the contract, concerning his duties ; not only as to appointed attendances, and the performance of vaccination and inspection, but also as to the keeping of the register, and as to the giving of certificates ; nor will any award be made to any vaccinator who has not habitually done his duties in person.

'If the number of infants vaccinated within the given period by the vaccinator has been less than the average number of the infantine public vaccinations in districts similarly circumstanced, the Board must be satisfied that the vaccinator has not conduced to the defect by any want of punctuality or other fault in relation to the public.

'III. No award will be made to any vaccinator unless the results of his work (whether as seen in the current practice of his station, or

as shown in the vaccination scars of a sufficient number and proportion of cases) are up to a certain standard of merit. The scars produced by the vaccinator must be thoroughly well marked in their foveation, and must have collectively at least ½ square inch total area.

'IV. No award in respect of the vaccination in any district will be made to any public vaccinator who has not held his office for at least one year, nor, under ordinary circumstances, to any person who at the time of inspection is not actually in office as the public vaccinator.

'V. Cases to be taken into account for purposes of award shall be all the successful infantine vaccinations recorded in the vaccinator's register, and verified by the board of guardians, from the quarter-day preceding the last inspection to the quarter-day preceding the present inspection.'

IV. DUTIES AND REMUNERATION OF REGISTRARS OF BIRTHS AND DEATHS UNDER THE VACCINATION ACT, 1867

Notice to be given to parents, &c., registering births (Vaccination Act, 1867, Sec. 15).

In order that those responsible for the vaccination of newly-born children may be duly advised of their duties with respect to the vaccination of the children, and of the result of default in the performance of such duties, the registrar of births and deaths is required, by Section 15 of the Vaccination Act of 1867, within seven days after the registration with him of the birth of any child not already vaccinated, to give a notice in a prescribed form, or to the like effect, to the parent, or, in the event of the death, illness, absence, or inability of the parent, to the person having the custody of such child, if known to him, requiring the child to be duly vaccinated according to the provisions of the Vaccination Acts, and specifying the days, hours, and places where the public vaccinator of the vaccination district wherein such child resides, or the vaccinator of any station duly authorised by the Local Government Board, will attend for the purpose of performing the operation.

This notice must be in the following form, prescribed by order of the Local Government Board, dated November 30, 1871, or to the like effect:—

FORM (A)

THE VACCINATION ACTS, 1867 AND 1871

Notice of the Requirement of Vaccination

To the Father, or Mother, or Person having the Custody of the Child herein named.

Copy hereunder the No. of the Entry of the Child's Birth from the Register Book.
Entry No.

I, the undersigned, hereby give you Notice to have the Child named ——————————, whose birth is now registered, vaccinated by a Public Vaccinator or some other Medical Practitioner, pursuant to the provisions of the Vaccination Acts; and that, in default of your doing so, you will be liable to the penalties thereby imposed for neglect of those provisions.

These Acts require every child to be vaccinated before it is three months old, or at the next Public Vaccination held in the District after the child has

attained that age. The Vaccination may, however, be postponed by Medical Certificate, if the child be not in a fit state to be vaccinated.

The following are the attendances for Public Vaccination in your District:—

Times and Places of attendance of _____ Public Vaccinator.

Times.		Places.
Day.	Hour.	
		at

After the Vaccination has been performed the child must be inspected by the Vaccinator, in order that, if the operation has been successful, he may fill up and sign the requisite certificate (Form D). When the Vaccination has been performed by a Public Vaccinator, the child must be taken to him for inspection at the appointed time on the same day in the following week.

This paper must be produced to the Vaccinator for him to fill up and sign the proper Certificate. If he be a Public Vaccinator it will be *his* duty to forward the paper to the Vaccination Officer; but if he be not a Public Vaccinator it will be *your* duty, after the Certificate has been duly filled up and signed, to forward this paper to the Vaccination Officer, whose address is written on the back.

Dated this _____ day of _____ 187 .

Signature of Registrar _____

Registrar of Births and Deaths for the Sub-District of _____

in the Superintendent Registrar's District of _____

There must be attached to the notice the prescribed forms of medical certificate (1) of successful vaccination, (2) of postponement of vaccination, and (3) of insusceptibility of successful vaccination, which have already been given in the notes at pp. 248 and 249.

Register of notices to be kept (Sec. 24).

Every registrar is required to keep a book in which he must enter minutes of the notices of vaccination given by him in pursuance of the above provisions, and he receives a fee of one penny in respect of every child whose birth he has registered and in respect of whom he has given the above notice; but no fee may be charged for any search made by a public vaccinator, or any officer of the guardians authorised by them to make such search, or any inspector appointed by the Local Government Board.

Fees to be paid to registrar by boards of guardians (Sec. 25).

It is the registrar's duty to make out an account of the fees to which he is entitled under the above provisions at the usual quarter-days of the year, and to submit the same to the guardians of the union or parish for which he acts; and they are required, after examining the same and comparing it with the register of successful vaccinations kept by the vaccination officer, and finding it to be correct, to forthwith pay the amount of the same.

Transmission to vaccination officer of list of births and deaths (Vaccination Act, 1871, Sec. 8).

Every registrar of births or deaths for any place must, once at least in every month, transmit, by post or otherwise, to each vaccination officer whose district is wholly or partly comprised in such place, a return, certified under the hand of the registrar to be a true return, of

all births and of all deaths of infants under twelve months of age which have since the date of the last return been registered by such registrar as having occurred in the district of the vaccination officer to whom the return is sent.

The registrar will, whether he is or is not also the vaccination officer, be entitled to a fee of twopence for every birth or death entered in such return; and such fee must be paid to him out of the same funds, and by the same persons, and in the like manner as the fees for giving the notices of vaccination under Section 15 of the Vaccination Act, 1867.

The returns transmitted to vaccination officers under these provisions must be made in such form and contain such particulars as may be from time to time prescribed by the Registrar-General of Births and Deaths in England, with the approval of the Local Government Board; and forms necessary for such purpose, and for the purpose of the Vaccination Act, 1867, must be supplied by the Registrar-General to every registrar of births and deaths.

V. THE NATURE AND TENURE OF OFFICE, DUTIES, POWERS, AND REMUNERATION OF VACCINATION OFFICERS

Nature of office of vaccination officers (Regulations of October 1, 1874).

The duties of the guardians in relation to their appointment of vaccination officers have already been explained (p. 256). Unlike the public vaccinator the vaccination officer is an officer of the guardians, and the regulations prescribed by the order of the Local Government Board of October 31, 1874, to which reference has already been made (p. 256) expressly require him, in performing his duties under the Vaccination Acts, to obey all lawful orders of the guardians which are applicable to his office and in conformity with the provisions of that order.

Tenure of office.

They also provide that he shall continue to hold his office until he die or resign, or be removed by the guardians with the consent of the Local Government Board, or by the Local Government Board. The guardians therefore appoint and pay him, and he is bound to obey all lawful orders which they may give to him. But he is not bound to obey any unlawful orders, and if he declines to obey them he cannot be dismissed without the consent of the Local Government Board. On the other hand, the Local Government Board have power to remove him from office at any time. He is, moreover, required by the regulations to take such proceedings as may be necessary under the Vaccination Acts in any case in which the Local Government Board [1] may direct him to do so.

Changes in district.

Where a vaccination officer is appointed for a particular district, and any change in the extent of the district is deemed necessary, and he declines to acquiesce therein, the guardians may, with the consent of the Local Government Board, but not otherwise, and after six months' notice in writing, signed by their clerk, given to such vaccination officer, determine his office.

No person may be appointed as a vaccination officer who does not

[1] It has not been the practice of the Local Government Board to avail themselves of this power, by directing proceedings to be taken in particular cases. As has been already explained (p. 257), it is the duty of the guardians to cause these proceedings to be taken, and to give the necessary directions to the vaccination officer for this purpose.

A month's notice to be given previous to resignation.

When resignation to take effect.

agree to give one month's notice previous to resigning the office, or to forfeit such sum as may be agreed upon as liquidated damages.

If any such officer give notice of an intended resignation to take effect on a future day, such resignation will take effect on that day, and the guardians may elect a successor at any time subsequent to such notice.

Duties of vaccination officer.

As has been already explained (p. 265) it is the duty of the registrars of births and deaths to give to the parent or other person registering the birth of every child, notice of the requirements of the law with respect to vaccination, and also to transmit to the vaccination officer, once at least in every month, a return of all births and deaths registered in the district of the vaccination officer. The certificates of the successful vaccination of children, their unfitness for vaccination, and their insusceptibility of successful vaccination, are also required to be sent to the vaccination officer (pp. 248 and 249). He is required by the Vaccination Acts to register these certificates, and at all reasonable times to allow searches to be made in the register, and upon demand to give a copy under his hand, or that of his deputy, of any entry in the register on payment of a fee of sixpence for each search and threepence for each copy. He is also required by the Acts to account to the guardians for all fees received by him, and to pay the same to the fund out of which the expenses of the guardians under the Vaccination Acts are paid.

As regards register of certificates (Vaccination Act, 1867, Sec. 24; Vaccination Act, 1871, Sec. 8).

Duties under regulations of October 1, 1874.

The above duties are imposed on him by statute. By an order of the Local Government Board, dated October 31, 1874, he is further required, in performing the duties of his office, to duly observe the instructions set out in the schedule of that order, which are as follows:—

'1. The duties of the vaccination officer will be to act as registrar of vaccination for the district to which he is appointed; to see that all children resident therein are duly vaccinated; and generally to carry into effect, under direction of the guardians, but subject to the regulations contained in this order, all such provisions of the Vaccination Acts as are not expressly assigned to the execution of other officers.

'2. He will receive from the registrars of births and deaths, and be responsible for the safe custody of, the "monthly lists" of births and deaths which will be sent to him under the provisions of the Act of 1871. On the lists of births he shall duly enter, in columns which are provided for the purpose, all certificates which he may receive of the successful vaccination of the children whose names are entered on the lists, or of their insusceptibility to vaccination, or of their having already had small-pox. All such entries must be made immediately on the receipt of the respective certificates. He shall compare each monthly list of deaths with the corresponding and with preceding lists of births, and as regards any children included in the death-return whose names are on the birth-lists but for whom he has not received one of the certificates above referred to, he shall enter the death in the column provided. And when on his personal inquiries, or by information from the vaccination officer of another district, or on other reliable authority, he shall have ascertained that a child included in the birth-lists for his district has died in some other district, he shall write off the case in like way. His work in these respects will be much facilitated by his keeping an alphabetical index to his birth-lists.

'3. He shall enter at the end of each quarter on blank "birth-list" sheets, which will be supplied him for the purpose on his applying to the District Registrar, certificates which he may have received during the quarter of the successful vaccination, or insusceptibility to vaccination, of children whose births had not been registered at all, or whose district of birth-registration he has been unable to ascertain.

'4. The monthly lists of births, together with the supplemental sheets referred to in Section 3, shall in the first instance be kept stitched, or otherwise fastened together, in a stiff cover, so as to preserve them from damage or dirt, and shall from time to time be bound into volumes as the guardians may direct, and shall constitute the "vaccination register" of the district.

'5. If any list of births or deaths be not received from a registrar within one week from the time it is due, the vaccination officer shall report this to the guardians at the next board meeting, with a view to the registrar being immediately called upon for an explanation, and, if need be, to communication with the Local Government Board. A vaccination officer who shall lose any of these lists shall be bound to obtain another from the registrar of births and deaths at his own cost.

'6. The steps that the vaccination officer will be required to take in discharge of his duty to see that all children entered on the birth-lists are duly vaccinated will vary, according as the vaccination district in which the parent resides is one in which continuous weekly public vaccination is maintained, or one in which the public performance of vaccination is only periodical.

'(i.) As regards districts in which there is continuous weekly public vaccination:—

'(*a*) He shall keep his birth-lists examined from week to week, and in each case of default which may arise shall, *immediately on such default arising*, intimate the fact to the parent. For this purpose a notice in the annexed form A, or to the like effect, may be used; and such notice may, if he think fit, be sent by post. He should make a mark ✓ in the margin of his vaccination register in each case in which this intimation of default has been given. If the intimation be not attended to within a reasonable time, say fifteen days, or if in the case of a notice sent by post the person to whom it was addressed has not been found by the Post Office, the vaccination officer shall at once proceed to make *personal* inquiries with a view to obtaining the requisite certificate or taking the necessary proceedings.

'(*b*) If on these personal inquiries the parent be found in default, an exact date should be specified by which he must have complied with the law; and a notice in the annexed form B, or to the like effect, should be given.

'(*c*) Failing compliance, the vaccination officer shall proceed according to the directions given him under Art. 16 of this order.

'(ii.) As regards districts in which the public vaccination is periodical:—

'(*a*) He shall, *previous to each vaccination period*, examine his birth-lists, and extract therefrom the names of all parents who would fall into default provided their children were not vaccinated before the termination of the next ensuing attendances, in order that intimation to this effect may be given to such parents *a few days before the attendances commence*, with warning of the penalties which will result

from non-compliance. The annexed form C, or a form to the like effect, may be used for this purpose. He should make a mark ✓ in the margin of his vaccination register against each case in which this intimation has been given.

'(*b*) And failing compliance, he shall without delay inquire personally into the circumstances of the case, and take such further steps as may be required according to the directions given him under Art. 16 of this order.

'7. He shall keep a book, to be called "The Vaccination Officer's Report Book," in such form as shall from time to time be framed and provided by the Local Government Board, in which he shall forthwith enter the names, with the other particulars required, of parents of whom personal inquiries may have been made, as above, with the dates of such inquiries. He shall note in this book any further action taken in any case, and make any remarks which the case calls for. He shall take care to make the necessary reference in Column V. of his "Vaccination Register" to each case thus entered in the Report Book.

'8. When on his inquiries the vaccination officer finds that a child has been successfully vaccinated, but the vaccination not duly certified, or that any other certificate due, as of postponement, &c., has not been transmitted, he shall ascertain with whom the default rests, having regard to the requirements of the Vaccination Act, 1867, Sections 21, 23, 30, and the Vaccination Act, 1871, Section 7, and shall forthwith take the necessary steps for obtaining the certificate required.

'9. He shall forthwith enter all certificates of postponement in the Report Book, with the date of the certificate, the name of the practitioner who signed it, and the period for which it was given, with a view to any inquiries which may be necessary at the expiration of that period, taking care to make the necessary reference in Column V. of his "Vaccination Register" to each case so entered. When certificates of postponement are delivered to him on the form of "Notice of Requirement," he shall see that the parent is always supplied with a new form of the notice of requirement, with the particulars of attendance, &c., duly filled in. The forms of "Notice of Requirement" can be obtained by him on his applying to the district registrar.

'10. When the vaccination officer shall find that any parent, respecting whose child he has not received a certificate of successful vaccination, has removed from the district, he shall take pains to ascertain the vaccination officer's district to which such removal has taken place, and shall give notice to the vaccination officer of that district, with a view to the vaccination of the child and the due return of the certificate to himself. And whenever a certificate respecting a child whose birth was registered in the district of some other vaccination officer is sent to him, he shall take pains to ascertain the district in which the birth took place, and forward the certificate accordingly.

'11. He shall submit to the guardians, in duplicate, at the end of every half-year, a summary of the vaccinations of his district, in the form prescribed and issued half-yearly by the Local Government Board, the duplicate to be transmitted to the Local Government Board.

'12. The vaccination officer shall at all times use his best endeavours to ascertain whether children resident in his district, but not having been born in it, or (if so born) not having had their births

registered in it, are unvaccinated, and shall, in such cases, take the requisite steps for procuring their vaccination.

'13. He shall, on outbreaks of small-pox, make any house-to-house visitations which the Local Government Board or the guardians may direct in reference to vaccination, and carry out any special instructions they may issue on the subject.

'14. As the guardians' officer for the administration of the Vaccination Acts, he shall see that the registrars of births and deaths in his district are kept informed of the arrangements for public vaccination as settled by the contracts, and of all alterations legally made in such arrangements, as well as of his own place of abode, in order that the entries required to be made in these respects by the registrars on the notices of requirement of vaccination delivered by them to parents may be correct. For this purpose it is recommended that the guardians have the particulars of the arrangements, and the name and address of the vaccination officer, printed in red ink on the notice forms with which each registrar is supplied.

'15. He shall also see that public notifications of the arrangements for public vaccination are duly given ; and in districts in which public vaccination is periodical shall see that such notices are distributed and placarded through the districts a week or ten days before the commencement of each period.

'16. He shall, as far as possible, attend the public vaccination stations during vaccinating hours, and report to the guardians any insufficiency of accommodation at these stations, or any failure of parents to bring for inspection the children on whom vaccination has been performed, or any other matter concerning the business of the station on which the guardians may require his report.

'17. He shall also undertake the distribution of the certificates, books, and other forms issued by the Local Government Board to the public vaccinators and medical practitioners in his district.

'18. He shall be responsible for the safe custody of the "Registers of Successful Vaccinations" which were kept by the registrars of births and deaths under the Acts of 1853 and 1867. The registers kept under the Act of 1853 may, if the guardians permit, be deposited in the union offices ; but all registers which contain entries of births subsequent to December 31, 1867, must be retained by the vaccination officer. He shall duly and forthwith enter in these registers the certificates which he may receive or obtain of the successful vaccination of children whose births are therein recorded. He shall write the word "dead" against the names of any of the children whose births are entered in these registers, whom he may ascertain either by the monthly death-lists, or by his own inquiries, to have died without having been vaccinated. And he shall write, *in pencil*, against the respective names, any information (as of removal from district, certificate of postponement, and its date, &c.) which does not finally dispose of the case.'

FORM A

VACCINATION ACTS, 1867 & 1871

To _____

I HEREBY remind you that I have not received the Certificate now due respecting the Vaccination of your Child, _____ and I beg that you will take the steps necessary to have such Certificate forwarded to me without delay.

(Signed)

Vaccination Officer for

_____

Dated _____

Address of Vaccination Officer _____

*** The Public Vaccinator for your District attends at his Station at _____

for the gratuitous performance of Vaccination every _____ at _____ o'clock. If the Child be vaccinated there, the Public Vaccinator is responsible for the transmission of the Certificate to me, otherwise it devolves UPON YOURSELF to send me the Certificate.

FORM B

VACCINATION ACTS, 1867 & 1871

To _____

WHEREAS you are in default under the above Acts, respecting your Child, _____

I hereby require you [to have the said Child vaccinated within fourteen days from the date hereof, and do all other things the law requires touching the said Vaccination*], *or* [to transmit to me within seven days from the date hereof the requisite Certificate concerning the Vaccination of the said Child*], failing which it will be my duty to take the proper steps for securing the enforcement of the law.

*Strike out the words which do not apply to the case.

(Signed)

Vaccination Officer for

_____

Dated _____

Address of Vaccination Officer _____

*** The Public Vaccinator for your District attends at his Station at _____

for the gratuitous performance of Vaccination every _____ at _____ o'clock. If the Child be vaccinated there, the Public Vaccinator is responsible for the transmission of the Certificate to me, otherwise it devolves UPON YOURSELF to send me the Certificate.

FORM C

VACCINATION ACTS, 1867 & 1871

To _____

I HEREBY remind you that the next appointed periodical attendances for the performance of Public Vaccination in your District will take place at _____ on _____ _____ and that if your Child _____ be not vaccinated before the expiration of that period, you will be in default, and subject to the penalties of the Vaccination Acts; and that it will be my duty to take the proper steps for securing the enforcement of the law.

(Signed)

Vaccination Officer for

_____

Dated _____

Address of Vaccination Officer _____

_____

No vaccination officer may perform the duties of his office by deputy unless, with the permission of the Local Government Board, given on the application of the guardians, he is allowed to intrust their performance to some other person duly approved by the guardians.

Duties of vaccination officer not to be performed by deputy.

The vaccination officer must pay to the treasurer of the guardians, to their credit, all sums of money recovered or received by him from any defendants in respect of costs and expenses incurred by him in any proceedings taken by him for enforcing the provisions of the Vaccination Acts.

Duty of vaccination officer to pay to treasurer of guardians costs and expenses recovered from defendants.

As has already been explained (p. 256), it is the duty of every board of guardians, under the regulations of the Local Government Board of October 31, 1874, to give general or special instructions to their vaccination officers authorising them to institute and conduct proceedings against persons in default. It is, however, a question whether in the absence of any such instructions the vaccination officer has power to institute and conduct proceedings against defaulters on his own motion. There appears to be no legal objection to his doing so, either under Section 29 or under Section 31 of the Vaccination Act, 1867. It will, however, of course be preferable that he should receive the necessary instructions for this purpose from the guardians.

Powers of vaccination officer as regards institution of proceedings without directions from the guardians.

The guardians must pay to their vaccination officers such salary or remuneration, and such only, as the Local Government Board may direct or approve, whether for ordinary duties or for occasional services; and such salary or remuneration may be increased or reduced as the Board may from time to time direct or approve. It will be payable up to the day on which the vaccination officer ceases to hold office, and no longer, subject to any deduction which the guardians may be entitled to make in consequence of his leaving office without giving a month's notice in accordance with the agreement[1] entered into on his appointment. It will be payable quarterly on the

Remuneration of vaccination officer. Order of Local Government Board of October 31, 1874.

[1] As to this agreement, see p. 268.

usual quarter days; but the guardians may pay any vaccination officer at the end of every calendar month such proportion as they think fit on account of the amount to which he may become entitled at the termination of the quarter. Every vaccination officer must make out his account at the end of each quarter, and within three days from the quarter day submit it to the guardians, together with the books which he may be required to keep and the certificates in his possession; and until such account, books, and certificates have been so submitted, and until he has shown that the steps required of him by the instructions [1] prescribed by the regulations of the Local Government Board have been taken by him with respect to every case entered on the monthly lists furnished to him by the registrars of births and deaths, the guardians may postpone the payment of the balance of the salary or remuneration which may then remain due.

The vaccination officer must also produce his books and certificates to the guardians, when required by them to do so, at any other times than those above specified.

[1] As to these instructions, see pp. 268 to 271.

PART IX

THE LAW CONCERNING PUBLIC HEALTH IN LONDON

The law relating to the public health in London differs materially from that in force in the remainder of England and Wales. The Public Health Act, 1875, and the Acts which have been passed from time to time amending it, form the basis of the greater part of the sanitary law in the provinces. Comparatively few sections[1] of these Acts apply to the metropolis. Until the passing of the Public Health (London) Act, 1891, by far the greater part of the sanitary legislation in force in London was scattered up and down a bewildering maze of statutes, some of which dated back to the reign of George III., and the majority of which were more or less behind the age. By that Act a great start was made in the consolidation and amendment of the sanitary law of London. But the number of statutes still awaiting similar treatment is very considerable, and their exposition is rendered exceptionally difficult by reason of their being administered by a congeries of local authorities, variously constituted. In the rest of the country there is one sanitary authority acting for each district. With the exception of the Port of London, which has fortunately been placed for sanitary purposes under the supervision of one local authority, there is no part of the metropolis in which there is not more than one public body exercising the functions of a sanitary authority. The popularly elected County Council of London, the Metropolitan Asylums Board, consisting partly of the representatives of the Metropolitan Boards of Guardians and partly of nominees of the Local Government Board, the unreformed Corporation of London, the Commissioners of Sewers of the City of London, appointed by the Corporation, the Metropolitan Vestries and district boards, the Woolwich Local Board of Health, the Com-

The Public Health Act, 1875, not applicable to the metropolis.

The large number of local authorities exercising sanitary functions in London.

[1] Among the sections of the Public Health Act, 1875, which apply to London are Sections 108 and 115, which enable the sanitary authorities of the metropolis to take proceedings for the abatement of nuisances within their respective districts caused by acts or defaults committed, or by offensive trades carried on within the district of any sanitary authority outside the metropolis; Sections 130, 134, 135, and 140 (as amended by Section 2 of the Public Health Act, 1889), relating to regulations and orders of the Local Government Board with respect to cholera, or other epidemic, endemic, or infectious diseases (as to which see pp. 179 to 191); Sections 182 to 186, relating to bye-laws (as to which see note 2, p. 33); Section 336, which provides that nothing in or done under the Act shall affect any outfall or other works of the Metropolitan Board of Works (although beyond the metropolis) executed under the Metropolis Management Act, 1855, and the Acts amending the same, or take away, abridge, or affect any right, power, authority, jurisdiction, or privilege of the Metropolitan Board of Works; and the re-enactment in Part III. of Schedule V. of Section 35 of the Public Health Act, 1872, which transferred the powers of the Board of Trade under the Metropolis Water Acts, 1852 and 1871, to the Local Government Boards.

missioners [1] of Police of the Metropolis, and the Commissioners of Baths and Washhouses, between them divide responsibilities more or less analogous to those which in the provinces devolve in every district on the urban or rural sanitary authorities. It is impossible within the scope of the present work to give a full account of all the powers and duties of each of these bodies. All that can be attempted is a general outline of the very complicated scheme of sanitary administration which has been designed by the Legislature for the metropolis, and a condensed description of the work devolving on the several authorities to whom that administration has been entrusted.

Necessity for central council and subordinate local authorities.

London has too large a population to admit of its sanitary administration being regulated by one governing body. The time will probably never arrive when it will not require, for sanitary purposes, a central body such as its present County Council, and subordinate sanitary authorities exercising somewhat similar functions to those of the metropolitan vestries and district boards. But the present system of its local government might with advantage be simplified and improved, and such simplification and improvement are much to be desired in the interests of the public health. This will be apparent on a perusal of the following pages.

I. SANITARY POWERS AND DUTIES OF THE LONDON COUNTY COUNCIL

(*a*) Medical Officers of Health and Sanitary Inspectors

Power to appoint one or more medical officers of health (Local Government Act, 1888, Sec. 17).

Some of the sanitary powers of the London County Council devolve on the Council in common with other county councils; but the majority of them are inherited by the Council as the successors of the late Metropolitan Board of Works. It has already been shown [2] that every county council has the power to appoint one or more medical officers of health. These officers may not hold any other appointment without the express written consent of the Council. The London County Council was one of the first county councils who availed themselves of this power. The Council have also to repay one-half of the salary of every metropolitan medical officer of health and sanitary inspector. The regulations of the Local Government Board, prescribed by an order dated December 8, 1891, require every medical officer of health in London, appointed or reappointed by any sanitary authority after January 1, 1892, to give immediate information to the London County Council of any outbreak of dangerous epidemic disease within his district, and at the same time that he transmits to the Local Government Board a copy of his annual report and of any special report to transmit a copy of such report to the Council.

Repayment by County Council of half of the salaries of medical officers of health and sanitary inspectors, Secs. 24 (2) (*c*) and 88 (*a*) (Public Health London Act, 1891, Sec. 108).

Copies of reports and information as to outbreaks to be sent to the County Council.

Power of County Council to make representation as to number of sanitary inspectors (Sec. 107).

It is the duty of the County Council when they consider that any sanitary authority in London has failed to appoint a sufficient number of sanitary inspectors, to make a representation to that effect to the Local Government Board, who, if satisfied after local inquiry of the truth of such representation, may order the authority to appoint such number of additional sanitary inspectors as the order directs, in which case the sanitary authority must comply with the order.

[1] See note 3 on page 329.
[2] See p. 225.

(*b*) Main Sewerage and Sewage Disposal

Powers of late Metropolitan Board of Works as regards main sewerage (Metropolis Management Act, 1855 (Sec. 135).

The London County Council, as the successors of the Metropolitan Board of Works, are the local authority for the purposes of the main sewerage and sewage disposal of London, while the vestries and district boards are the local authorities for the purposes of the sewerage and drainage other than the main sewerage. By Section 135 of the Metropolis Management Act, 1855, the main sewers of the metropolis, described in Schedule D to that Act, then vested in the Commissioners of Sewers of the City of London and in the Metropolitan Commissioners of Sewers respectively, were vested in the Metropolitan Board of Works, and that Board was required to make such sewers and works as they might think necessary for preventing all or any part of the sewage within the metropolis from flowing or passing into the river Thames [1] in or near the metropolis, and to cause such sewers and works to be completed on or before December 31, 1860,[2] and also to make all such other sewers and works, and such diversions and alterations of any existing sewers and works vested in them under that Act as they might from time to time think necessary for the effectual sewerage and drainage of the metropolis,[3] and to discontinue, close up, or destroy such sewers for the time being vested in them under that Act as they might deem unnecessary, and to repair and maintain from time to time the sewers so vested in them, or such of them as might not be discontinued, closed up, or destroyed as aforesaid; and for these purposes full power and authority were given to the Board to carry any such sewers or works through, across, or under any turnpike road,[4] or any street [5] or place laid out as or intended as a street, as well beyond as within the limits of the metropolis, or through or under any cellar or vault under the carriage-way or pavement of any street, or into, through, or under any lands [6] whatsoever within or beyond the said limits, making compensation for any damage done thereby in manner provided by that Act. The same section provided that all sewers and works from time to time made by the Board should vest in them, and that the Board

[1] The works which the Metropolitan Board of Works were subsequently required by the Metropolitan Main Drainage Act, 1858, to carry out are described in Section 1 of that Act as 'the necessary sewers and works for the improvement of the main drainage of the metropolis, and for preventing, as far as practicable, the sewage of the metropolis from passing into the Thames within the metropolis.'

[2] This date was subsequently extended by later Acts.

[3] The Metropolitan Board of Works subsequently undertook to take into their sewers sewage from certain districts outside the metropolis—e.g. Hornsey, Beckenham, and Tottenham—subject to certain conditions which it is unnecessary here to particularise.

[4] This power is subject to the provisions contained in Section 83 of the Metropolis Management Act, 1862, as to the notices to be given, the stoppage of traffic, the fencing and lighting of the openings made in the road, and the restoration of the road, sewers, paving, &c.

[5] 'Street' is defined by Section 250 of the Act as including any highway (except the carriage way of any turnpike road), and any road, bridge (not being a county bridge), lane, footway, square, court, alley, passage, whether a thoroughfare or not, and a part of any such highway, road, bridge, lane, footway, square, court, alley, or passage, which definition is extended by Section 112 of the Metropolis Management Act, 1862, so as to include any mews and a part thereof.

[6] The exercise of these powers is subject to certain restrictions in the case of sewers affecting railways or canals (see Sections 34 and 35 of the Metropolis Management Act, 1862). The approvals of the Admiralty and Conservators of the Thames were also required by Sections 27 and 28 of the Metropolis Main Drainage Act, 1858, to works under that Act. See also Section 30 of that Act as to works under or over the river Lea.

Main sewers to be constructed and kept so as not to be a nuisance.

should cause the sewers vested in them to be constructed, covered, and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied; and for the purpose of clearing, cleansing, and emptying the same the Board were empowered to construct and place either above or under ground such reservoirs, sluices, engines, and other works as might be necessary, and to cause the sewage and refuse from such sewers to be sold and disposed of as they might think fit, but so as not to create a nuisance.

Power of County Council to declare sewers to be main sewers, and to take jurisdiction over sewerage and drainage matters belonging to vestries and district boards (Sec. 137).

Section 137 of the same Act provided that in case it should appear to the Metropolitan Board of Works that any sewers in the metropolis not thereinbefore vested in them ought to be considered main sewers, and to be under their management, it should be lawful for them by an order under their seal to declare the same to be main sewers, and that thereupon the same should vest in and be under their management; and that it should also be lawful for the Board by any such order to take under their jurisdiction and authority any other matters in relation to sewerage and drainage with respect to which jurisdiction or authority by that Act vested in any vestry or district board.

Power of vestries and district boards to transfer their sewerage powers to the County Council, Sec. 89 (Metropolis Management Act, 1862, Sec. 28).

By Section 89 of the same Act, as amended by Section 28 of the Metropolis Management Act, 1862, any vestry or district board, with the previous consent in writing of the Metropolitan Board of Works, were empowered by a resolution passed at a meeting specially convened for the purpose of considering the question, after not less than fourteen days' notice, and attended by not less than two-thirds of their whole number, to transfer to the Metropolitan Board of Works the powers and duties vested in them in relation to sewerage and drainage, and all sewers and property vested in them for the purposes of and in connection with such powers and duties.

Orders for controlling vestries and district boards in the construction of sewers, &c. (Sec. 138).

The Metropolitan Board of Works were required by Section 138 of the Act of 1855, from time to time, in order to secure the efficient maintenance of the main and general sewerage of the metropolis, to make such general or special order as to them might seem proper for the guidance, direction, and control of the vestries and district boards in the levels, construction, alteration, and maintenance and cleansing of sewers in their respective parishes and districts, and for securing the proper connection and inter-communication of the sewers of the several parishes and districts, and their communication with the main sewers vested in the Metropolitan Board of Works, and generally for the guidance, direction, and control of vestries and district boards in the exercise of their powers and duties in relation to sewerage. All such orders are binding upon the vestries and district boards.

Compensation payable in certain cases (Metropolis Management Act, 1855, Sec. 32).

Section 32 of the Metropolis Management Act, 1862, enabled the Metropolitan Board of Works to direct compensation to be paid by one vestry or district board to another in any case where under this power the sewers of parishes or districts were connected.

Power of County Council to make bye-laws for guidance of vestries, &c., in construction of sewers, Sec. 83 (Metropolis Management Act, 1855, Sec. 202).

Section 83 of the last-mentioned Act also empowered the Metropolitan Board of Works, in order to secure the efficient maintenance of the main and general sewerage of the metropolis, from time to time to make, alter, and repeal bye-laws for the guidance, direction, and control of the vestries and district boards and all other persons in relation to the levels, dimensions, construction, maintenance, ventilation, and cleansing of sewers in their respective parishes, districts or parts, and for the other objects enumerated in Section 138 of the Act of 1855. This provision, however, only extends in the City of London and its

liberties so far as regards the main drainage of the metropolis. Bye-laws under this section are subject to the provisions [1] relating to bye-laws contained in the Act of 1855.

The Metropolitan Board of Works were also empowered by Section 202 of the Act of 1855 to make, alter, and repeal bye-laws for regulating the dimensions, form and mode of construction, and the keeping, cleansing, and repairing of the pipes, drains, and other means of communicating with sewers, and the traps and apparatus connected therewith. But this power is virtually superseded by that given by the last-quoted section.

Power to place a street under the management of one vestry or district board for purposes of sewerage, &c. (Sec. 140).

The Act of 1855 also enabled the Metropolitan Board of Works, when it might appear to them that any street or line of streets, being in more than one parish or district, should be placed under the exclusive management of one vestry or district board for the purposes of paving, lighting, watering, or cleansing, or for the purposes of sewerage or drainage, or for all the purposes of the Act, to order that the same should be under the management of such vestry or board accordingly; and where it should appear to them that any part of any parish or district was so detached or situate that it would be convenient for the purposes of sewerage or drainage that the same should be placed under the management of the vestry or district board of any adjoining parish or district, to order that such part should for such purposes be under the management of such vestry or district board.

Approval of County Council necessary to construction of new sewers by vestries and district boards (Sec. 69).

Section 69 of the same Act prohibits the making of any new sewer by a vestry or district board without the approval of the County Council.

Plans, &c., of new sewers to be submitted to County Council (Metropolis Management Act, 1862, Secs. 45 to 51).

Sections 45 to 51 of the Metropolis Management Act, 1862, contain detailed provisions as to the steps to be taken by vestries and district boards proposing to construct any new sewer, or to sanction the construction of any such sewer by any person, or to abandon or alter any design for a new sewer approved by the County Council. These provisions require the plans for the proposed works to be submitted to the Council and render a fresh application and sanction necessary if the sewer be not constructed within twelve months from the date of the sanction.

Gullies connected with main sewers not to be trapped without notice to County Council (Sec. 27).

No gully or ventilating shaft immediately connected with or appertaining to any sewer vested in the County Council may be trapped, covered, or closed up without previous notice in writing being given to the Council, nor if the Council or their engineer, within one week after the giving of such notice, express in writing their or his objection to the same.

Buildings not to be made in, over, or under sewers without consent (Metropolis Management Act, 1855, Sec. 204).

No building may be erected in, over, or under any sewer vested in the County Council, or in any vestry or district board, without their consent in writing, and the County Council, vestry, or district board, as the case may be, may, at the expense of the person erecting any building contrary to this provision, demolish the same.

Penalties on persons placing buildings or

Heavy penalties are also imposed by Sections 68 and 69 of the Metropolis Management Act, 1862, on persons who knowingly erect or place any building, wall, bridge, fence, obstruction, annoyance, or

[1] No penalty can be imposed by these bye-laws unless the same be approved by the Secretary of State. The penalties may not exceed 40s., and 20s. a day for a continuing offence, after notice of such offence. The bye-laws will be of no force or effect unless submitted to and confirmed at a subsequent meeting of the board to the meeting at which they are made.

encroachments on sewers, or interfering with sewers (Metropolis Management Act, 1862, Secs. 68 and 69).

encroachment in, upon, over, or under any sewer or drain under the jurisdiction of the County Council or of any vestry or district board, without the previous consent in writing of the Council, board, or vestry in whom the same may be vested, or who take up, remove, demolish, or otherwise interfere with any such sewer or part of a sewer without such consent, or who wilfully damage any sewer, bank, defence, wall, pen, stock, grating, gully, side entrance, tide valve, flap, work, or thing vested in the County Council, or any vestry or district board, or who do any act by which the drainage of the metropolis or any part thereof may be obstructed or injured; and power is given to the Council, vestry, or district board, as the case may be, to remedy any such mischief, and to charge the expense thereof on the offender.

Penalty on persons sweeping dirt into sewers (Metropolis Management Act, 1855, Sec. 204).

A penalty not exceeding 5*l.* is also imposed on any scavenger or other person who sweeps, rakes, or places any soil, rubbish, or filth, or any other thing, into or in any sewer or drain, or over any grate communicating with any sewer or drain, or into any dock or inlet communicating with the mouth of any sewer or drain, or into which any sewer or drain may discharge its contents, or into the river Thames contiguous thereto.

Power of County Council to purchase land by agreement, or, for the purposes of their sewers, compulsorily, with consent of Secretary of State (Metropolis Management Act, 1855, Sec. 152; Metropolis Management Act, 1862, Sec. 22).

For the purpose of enabling the County Council to obtain any land, or any right or easement in or over any land, which they may require for their works of sewerage and sewage disposal, or for any other purposes of the Metropolis Management Acts, the greater part of the Lands Clauses Consolidation Act, 1845, is incorporated with those Acts; and the provisions so incorporated which would be applicable in the case of a purchase of any land are to be applicable in the case of a purchase of a right or easement in or over any land. The provisions of that Act with respect to the purchase and taking of lands otherwise than by agreement are not so incorporated, except for the purpose of enabling the County Council to take land, or any right or easement in or over land, for the purpose of making any sewers or works for preventing the sewage or any part of the sewage within the metropolis from passing into the Thames in or near the metropolis, or otherwise for the purpose of the sewage or any part of the sewage of the metropolis, or otherwise for the purpose of the sewerage or drainage of the metropolis, or for the purpose of making convenient roads or ways to or in connection with any sewers or works vested in the County Council, or which they may require for making roads or ways during the construction of any sewerage works, or for spoil banks, or places of deposit of surplus earth or other materials in the execution of any such works. Nor may any land, or right of easement in or over land, for the above purposes be taken compulsorily by the County Council except with the consent in writing of the Secretary of State. Before any application is made for such consent the County Council must publish advertisements in four consecutive weeks in a daily newspaper, and serve notices four weeks previously to the application on the owners or reputed owners, lessees or reputed lessees, and occupiers of the land intended to be taken, or of the land in or over which a right or easement is intended to be taken.

Advertisements and notices necessary before application for consent of Secretary ofState(Metropolitan Main Drainage Act, 1855, Sec. 153).

By the Metropolitan Main Drainage Act, 1858,[1] to which reference has already been made, and which is to be read as one with the Metropolis Management Act, 1855, the powers of the Metropolitan Board of Works for the purification of the Thames and the main drainage of

[1] See note 1 on p. 277.

the metropolis were extended. Section 3 of this Act provided that the powers of taking land given by the Act of 1855, and all other powers in the two Acts in relation to sewerage works, should extend and be applicable as well to works for deodorising sewage as to all other works under the Act of 1858, either within or beyond the limits of the metropolis, and that all such works should be deemed works for the purpose of the sewerage or drainage of the metropolis.

Extension of powers of County Council as to sewerage to works for sewage disposal (Metropolitan Main Drainage Act, 1858, Sec. 2).

Section 24 of the same Act provided that the Metropolitan Board of Works should cause all works to be executed under the Act to be constructed and kept so as not to be a nuisance, and should in deodorising any sewage, and in disposing of any sewage or refuse from sewers, act in such a manner as not to create a nuisance. Section 31 enabled the Secretary of State at his discretion, on representation or complaint made to him of any nuisance committed in the execution of any works, or in deodorising any sewage, or in disposing of any sewage or refuse from sewers, or in any other manner under the Act, to cause inquiry to be made into the matter represented and complained of to him, and to direct such prosecution or prosecutions as he might think fit in order to insure the prevention or abatement of such nuisance.

Works to be constructed and kept so as not to create a nuisance (Sec. 24).

Power of Secretary of State to intervene on complaint of nuisance (Sec. 31).

Subsequently, by the Thames Navigation Act, 1870, the Metropolitan Board of Works (now the County Council) were required at their own expense to keep the Thames free from such banks or other obstructions to the navigation thereof as might have arisen or might arise from the flow of sewage at their outfalls for the time being into the river, and for these purposes were empowered from time to time to dredge the river, and to remove such banks or obstructions, such dredging operations to be subject to the approval of the Thames Conservators, and to be carried on under their supervision if they should so require. In the event of any difference arising between the County Council and the Conservators as to any work done by the County Council under this Act, or as to the origin of any banks or other obstructions to the navigation of the river, the matter is to be referred to two arbitrators appointed by the parties and an umpire to be appointed by the Board of Trade on the application of either party, or in the event of an application by both parties to the Board of Trade, by one or more referees to be nominated by the Board of Trade. Section 23 of the same Act extends the powers[1] of taking land given to the County Council by the Metropolis Management Act, 1855, to any lands which may be required by the Council for the purpose of landing and depositing any gravel, sand, and other substances raised by them from the bed of the Thames under this Act.

Banks and obstructions caused by sewage to be removed by County Council (Thames Navigation Act, 1870, Sec. 20).

Differences between Council and Conservators to be settled by arbitration (Sec. 21). Power of County Council as to lands required for dredging (Sec. 23).

(c) Prevention of Floods

By the Metropolis Management (Thames River Prevention of Floods) Amendment Act, 1879, the Metropolitan Board of Works were authorised to require the execution of such flood works as might be necessary for the protection of lands within the metropolis from floods and inundations caused by the overflow of the river Thames, in accordance with plans prepared on behalf of the Board, or with such plans and specifications as the Board might approve; the liability for the execution of such works being declared by the Act to belong in

Power of County Council to require execution of flood works by the parties liable to carry out such works (Metropolis Management, Thames River Prevention of Floods Act, 1879).

[1] As to these powers, see the preceding page.

respect of works executed upon premises vested in or subject to the control of the Commissioners of Sewers of the City of London, or the metropolitan vestries or district boards, to such Commissioners, vestries, or boards, and in respect of all other works to the owners of the premises on which the works were executed. On the default of these bodies and persons to execute the requisite works, the Metropolitan Board of Works were empowered by the Act to do the works and recover the expenses from the defaulters. The above powers are now vested in the County Council; but it appears from the last report of the Metropolitan Board of Works [1] that the banks of the river Thames have, in pursuance of the above powers, been fenced and protected, and that there has not been, nor is there likely to be, any recurrence of the disastrous inundations to which some of the low-lying districts by the river-side were liable prior to the passing of the above Act. Under these circumstances, it appears unnecessary to set out in detail the very voluminous provisions of this Act. Attention may, however, be drawn to Sections 23 and 24 of the Act, the former of which provides that if any person make any alterations to any bank so as to affect the security of the premises upon which the same is situate, or of any premises adjacent or near thereto, from flooding caused by the overflow of the river, without the previous sanction in writing of the County Council, he shall be liable to a penalty not exceeding 10*l.*, and in the case of a continuing offence to a further penalty not exceeding 10*l.* for every day after the first day after the making of such alteration, until the same be sanctioned by the Council, or if the same is not sanctioned, until the bank is restored to its former condition to the satisfaction of the Council.

Power to execute works on default and charge persons liable (Secs. 13, 31).

Works done under these powers.

Penalty for alteration of banks without sanction of County Council (Sec. 23).

Survey and repair of dangerous or insufficient banks, and maintenance and repair of same (Sec. 24).

Section 24 provides that whenever it is made known to the Council that any bank in any parish or district within the limits [2] of the Act is out of repair, dangerous, or insufficient for the effectual protection of any premises within the limits of the Act from floods or inundations caused by the overflow of the river, they shall require a survey of the bank to be made by the district surveyor,[3] or by some other competent surveyor; and that it shall also be the duty of the district surveyor to make known to the Council any information he may receive with respect to any bank being in the above-mentioned condition. On completion of the survey, the surveyor is to certify his opinion of the state of the bank to the Council; and if the certificate is to the effect that the bank is out of repair, dangerous, or insufficient, the Council must cause a notice of it to be served on the bodies [4] or persons liable to execute the flood works, specifying the flood works which, in their opinion, are necessary for repairing the bank, removing any cause of danger in relation thereto, or rendering it sufficient, together with the necessary plans, sections, and estimates, after which the provisions of the Act requiring such bodies or persons to execute the works, and enabling the Council to execute them on default, and to recover the expenses, will come into force.

[1] See p. 24 of the *Report of the Metropolitan Board of Works for the Year ending December* 31, 1888. Parliamentary Paper, Session 1889, No. 320.

[2] The limits of the Act are the metropolis.

[3] As to the powers, duties, appointment, &c., of district surveyors, see pp. 289 to 292.

[4] As to these powers and bodies, see above.

(*d*) Water-supply

Water-supply of London in the hands of companies who are under exceptional regulation.

The water-supply of London is in the hands of eight metropolitan water companies, whose powers and rights are regulated by their local Acts and by the Metropolis Water Acts, 1852 and 1871. The limits of these companies include not only the metropolis, but also a large extra-metropolitan area. Neither the County Council nor any other local authority of the metropolis have any power to supply water to the inhabitants of London for domestic purposes, and so far as this question is concerned, the companies have to all intents and purposes as strong a position [1] as water companies in the provinces. They have, however, been placed by statute under regulation in certain respects to an extent that has never been experienced by other water companies. E.g. their accounts are audited by an auditor, appointed by the Local Government Board, who has large powers of requiring the accounts of any company to be corrected. The water supplied by them is from time to time examined by a water examiner, also appointed by the Local Government Board, who from time to time reports the results of his examinations to that Board. And no new source of supply may be resorted to by any company until notice has been given to the Local Government Board, and that Board, on the report of an inspector, have certified their approval thereof, and where the service has been specially authorised by Parliament, have also certified that the directions of the special Act in reference thereto have been complied with. The Local Government Board may also inquire into complaints made to them as to the quality or quantity of the water supplied by any company for domestic use, and if it appears to them that the complaint is well-founded, require the company to remove the grounds of complaint. Each company is, moreover, required to make regulations, which are of no effect until approved by the Local Government Board, for preventing the waste and misuse, undue consumption, or contamination of the water supplied by them. These regulations may from time to time be repealed or altered. In connection with them certain powers are conferred on the County Council by the Metropolis Water Act, 1871. Section 19 of that Act provides that in case any company on being requested in writing by the County Council or by any ten consumers of the water supplied by it, to repeal or alter any of the regulations for the above purposes for the time being in force, or to make new regulations instead of any of the same, refuses to do so, the Local Government Board may, if they think fit, appoint a competent and impartial person of engineering knowledge and experience to report to them as to the expediency of altering or repealing the regulations, in conformity with such request; and that on the report of such person, the Local Government Board may make such repeal or alterations as they think fit.

Nature of regulation.

Metropolis Water Act, 1871, Secs. 37–42.

Sec. 36.

Metropolis Water Act, 1857, Secs. 5–8.

Secs. 9–13.

Metropolis Water Act, 1871, Secs. 17–25.

Powers of County Council in connection with regulations made by the companies for preventing waste, misuse, or contamination of water (Secs. 19, 21, and 22).

Within four days after the making of any regulation, or of any repeal of or alteration in any regulation, notice of the same must be served upon the County Council by the company or person making it. At any inquiry held by the Local Government Board in connection with the confirmation of these regulations, that Board must hear the County Council as well as the company, if they desire to be heard.

[1] As to the mutual relations of water companies and sanitary authorities in the provinces, see pp. 35 and 36.

Powers of County Council in relation to constant supply (Secs. 8 and 9).

Some further powers are given to the County Council by the same Act in relation to the constant supply of water by the companies. It is the duty of the Council, whenever they are of opinion that there should be in any district a constant supply, to make application to the company within the water limits in which such district is situate, requiring a constant supply in such district; and without any such application any company may propose to the County Council to give a constant supply in any district. If, in the former case, the company object to the requisition of the County Council, or, in the latter, if the County Council object to the proposal of the company, the objecting party may, within a month after the application or notice of the proposal, as the case may be, present a memorial to the Local Government Board setting forth their objections. This memorial must be taken into consideration by the Local Government Board, who may, if they think fit, institute an inquiry, and hear both parties, and make such order in reference thereto as may seem just to them.

No company can, however, be compelled to give a constant supply to any premises in any district until the regulations above referred to are made and are in operation in the district, nor if it can be shown by the company that at any time after the expiration of two months from the time of the service of any requisition for constant supply more than one-fifth of the premises in the district are not provided with the prescribed fittings.[1]

Power to supply fittings on default of owner or occupier (Sec. 9).

In any district in which any default in respect of the prescribed fittings is found, the County Council may, by notice in writing, require the owner or occupier of any such premises, within a time to be specified in the notice, to provide the prescribed fittings, and to cause the fittings in such premises to be repaired, so as to prevent any waste of water; and if any person fails to comply with the terms of such notice the County Council may provide for such premises the prescribed fittings, or repair the fittings within the same, as the case may be, and recover the expenses from the person liable to pay the rate for the water supplied, or on whose credit the water is supplied, or from the owner of the premises.

Power of Local Government Board to order constant supply without application of County Council (Sec. 11).

Without any application on the part of the County Council, the Local Government Board may at any time require a constant supply to be provided in any district by the company upon complaint made to them, in case it appears to them, after due inquiry, that the County Council refuses to make or unreasonably delays making application for such constant supply, or that by reason of the insufficiency of the existing supply of water in the district, or the unwholesomeness of such water in consequence of its being improperly stored, the health of the inhabitants of the district is, or is likely to be, prejudicially affected.

Inquiries and negotiations as to water-supply (London Council (General Powers) Act, 1890, Sec. 38).

Section 38 of the London Council (General Powers) Act, 1890, declares that it shall be lawful for the County Council from time to time to prosecute and conduct inquiries and negotiations relative to the supply of water, or companies supplying water in or near the administrative County of London, and to pay out of the county fund the costs and expenses of such inquiries not exceeding 5,000*l.*

[1] 'Prescribed' is defined in Section 4 of the Act as meaning prescribed by any regulations made under the authority of the Act. 'Fittings' are defined as including communication pipes, and also all pipes, cocks, cisterns, and other apparatus used or intended for supply of water by a company to a consumer, and for that purpose placed in or about the premises of a consumer.

(*e*) Water-closets, Privies, etc.

Power of County Council to make bye-laws as to water-closets, &c. (Public Health (London) Act, 1891, Sec. 39 (1)).

The County Council are empowered by Section 39 (1) of the Public Health (London) Act, 1891, to make bye-laws with respect to water-closets, earth closets, privies, ashpits, cesspools, and receptacles for dung, and the proper accessories thereof in connection with buildings whether constructed before or after the passing of that Act; and it is the duty of every sanitary authority [1] in London to observe and enforce such bye-laws.

General provisions as to bye-laws (Sec. 114).

These bye-laws, and any other bye-laws made by the County Council under this Act, will be subject to the provisions of Sections 182 to 186 of the Public Health Act, 1875, the effect of which is given at note 2 of page 33. In making any bye-laws under this Act which will have to be observed and enforced by any sanitary authority, the County Council are required to consider any representations made to them by that authority, and not less than two months before applying to the Local Government Board for the confirmation of the bye-laws they must send a copy of them to every such authority.

Appeal to County Council (Sec. 37).

Any person who thinks himself aggrieved by any notice or act of a sanitary authority under Section 37, 41, or 43 [2] of the Public Health (London) Act, 1891, may, unless the sanitary authority are the Commissioners of Sewers of the City of London, appeal to the County Council, whose decision will be final.

(*f*) Scavenging and Cleansing

Bye-laws of County Council (Sec. 16 (2)).

Section 16 (2) of the same Act empowers the County Council to make bye-laws [3]—(*a*) for prescribing the times for the removal or carriage by road or water of any fæcal or offensive or noxious matter or liquid in or through London, and providing that the carriage or vessel used therefor shall be properly constructed and covered so as to prevent the escape of any such matter or liquid, and as to prevent any nuisance; and (*b*) as to the closing and filling up of cesspools and privies, and as to the removal and disposal of refuse, and as to the duties of the occupier of any premises in connection with house refuse, so as to facilitate the removal of it by the scavengers of the sanitary authority.

It will be the duty of every sanitary authority to observe and enforce any bye-laws made under this section; and, except as otherwise provided by the bye-laws, a constable may arrest without warrant and take before a justice any person whom he finds committing an offence against such bye-laws, and who refuses to give his true name and address.

(*g*) Housing of the Poor

Powers of County Council under Housing of the

The County Council have some very important powers under the Housing of the Working Classes Act, 1890, in relation to the housing of the poor in the metropolis. As will be seen hereafter,[4] some of the powers

[1] The principal sanitary authorities for the purposes of the Public Health (London) Act, 1891, are the metropolitan vestries and district boards, the Woolwich Local Board of Health, and the Commissioners of Sewers of the City of London. Bye-laws made by the County Council under the Act will not, however, extend to the City.

[2] See pp. 308 and 309.

[3] As to the provisions applicable to these bye-laws, see note 2, p. 33.

[4] See p. 317.

Working Classes Act, 1890.

and duties which in the provinces devolve on the sanitary authorities under this Act, belong in London, outside the City of London, to the metropolitan vestries and district boards and the Woolwich Local Board. Others have been entrusted to the County Council, who in addition have exceptional powers of coercing these sanitary authorities when they neglect their duty under the Act.

County Council the local authority outside the City of London for the purposes of Parts I. and III., and vestries and district boards the local authorities for the purposes of Part II. of the Act.

Outside the City of London, the County Council are the local authority for the purposes of Parts I. and III.,[1] and the vestries and district boards and the Woolwich Local Board are the local authorities for the purposes of Part II. of the Act. The evils which the first two parts of the Act are designed to cure are, to a certain extent, similar. When they exist on a small scale, the appropriate remedy can usually be found under Part II. When they are on a large scale, they can be met by Part I. When Part II. is put in force, the cost primarily falls on the parish or district subject to the sanitary authority. When recourse is had to Part I., the expenses are necessarily borne by the whole of London exclusive of the City.[2] From a financial point of view, therefore, it would often be to the advantage of a sanitary authority to induce the County Council to proceed under Part I. in cases where if that part of the Act had not been in existence they ought to have endeavoured to deal with the mischief themselves under Part II. There are many cases in which it is very hard to determine under which part of the Act it would be best to proceed, and in which, although at a comparatively moderate cost, much good might be done under Part II., it is undeniable that more good could be done, though at a very much higher cost, under Part I. Under these circumstances it will not be surprising if cases should occasionally arise in London in which the County Council are of opinion that it is the duty of the sanitary authority to take the initiative, while the latter authority consider the case is one which should be taken up by the County Council.

Results arising from this arrangement.

When official representation deals with not more than ten houses, the case to be dealt with under Part II. (Housing of Working Classes Act, 1890, Sec. 72).

One class of these cases is excluded from dispute by Section 72 of the Act, which provides that when an official representation made to the County Council in pursuance of Part I. of the Act relates to not more than ten houses, the Council shall not take any proceedings on such representation, but shall direct the medical[3] officer of health making the same to represent the case to the sanitary authority under Part II. of the Act, and that it shall be the duty of the sanitary authority to deal with the case in manner provided by that part of the Act.

Secretary of State to decide which cases are to be dealt with under Part I., and which under Part II. of the Act (Sec. 73).

It is obvious, however, that this enactment only solves the difficulty in a limited number of cases, and a further attempt has therefore been made by Section 73 of the Act, to remove doubts and differences that may arise between the County Council and the sanitary authorities on this question by leaving the matter to be determined in each case

[1] The provisions of these parts of the Act so far as the provinces are concerned will be found at pp. 82 to 89 and 96 to 98. For the provisions of Part II. of the Act, so far as they relate to the provinces, see pp. 89 to 96. The provisions specially relating to London will be found on this and the following pages.

[2] In the City of London, as will be seen (p. 328), the Commissioners of Sewers are the local authority under all parts of the Act, and in each case the cost incurred is spread over the same area—i.e. the City.

[3] In connection with this section it should be borne in mind that the officer making the official representation would usually be the medical officer of health of the vestry or district board, inasmuch as under Section 5 (1) of the Act an official representation does not only mean in London a representation by the medical officer of health appointed by the County Council, but also a representation by any medical officer of health in London.

by the Secretary of State. The enactment referred to in effect provides that in either of the following cases :—(*a*) Where a medical officer of health has reported to any sanitary authority in the County of London exclusive of the City of London, under Part II. of the Act, that any dwelling-houses are in a condition so dangerous or injurious to health as to be unfit for human habitation, or that the pulling down of any obstructive buildings would be expedient, and such authority resolve that the case is of such general importance to the County of London that it should be dealt with by a scheme under Part I. of the Act; or (*b*) Where any official representation, as mentioned in Part I. of the Act, has been made to the County Council in relation to any houses, courts, or alleys within a certain area, and the Council resolve that the case is not of general importance to the county, and should be dealt with under Part II. of the Act, the sanitary authority or the County Council may submit such resolution to the Secretary of State, who may thereupon appoint an arbitrator, and direct him to hold a local inquiry. Where this is done, the arbitrator must hold the inquiry, and report to the Secretary of State as to whether, having regard to the size of the area, to the number of houses to be dealt with, the position, structure, and sanitary condition of the houses and the neighbourhood, and to the provisions of Part I. of the Act, the case is either wholly or partially of any and what importance to the county, with power to the arbitrator to report that in the event of the case being dealt with under Part II. of the Act, the County Council ought to make a contribution in respect of the expense of dealing with the case. After considering the report, the Secretary of State may, according as seems just to him, decide that the case be dealt with either under Part II. or under Part I. of the Act, and the medical officer of health or other proper officer is required forthwith to make the report [1] or official representation [2] necessary for proceedings in accordance with such decision.

Officer of health to make report or representation accordingly.

The above provisions afford, no doubt, an opportunity by which either the local authority or the County Council can, if they choose to do so, obtain an authoritative decision under which part of the Act proceedings should be taken, and whether any contribution should be made by the County Council in the event of any proceedings being taken under Part II. of the Act. But they do not require either party to obtain this decision. Nor do they offer any security that either party will act in conformity with the decision if one is obtained.

Practical effect of these provisions.

They are, however, supplemented by the special provisions relating to London, which are contained in Sections 45 and 46 of the Act. The former of these sections places every sanitary authority in London, other than the Commissioners of Sewers of the City of London, in the same position in relation to the County Council [3] as that occupied by rural sanitary authorities in other counties—i.e. it requires the authority to send forthwith to the Council a copy of every representation,[4] complaint, or information made to the authority under Part II. of the Act, respecting every dwelling-house unfit for human habitation and every obstructive building, and every closing order [5] made with respect

Power of County Council in case of default of the sanitary authority (Sec. 45).

[1] If the decision be that the case shall be dealt with under Part II., this may be done (*a*) by obtaining closing or demolition orders (see pp. 90 and 91); (*b*) by dealing with obstructive buildings (see p. 92); (*c*) by a scheme under Section 39 (1) (*b*) (see pp. 94 and 95).

[2] As regards this representation, see p. 82.

[3] As to the powers of county councils in these cases, see pp. 93 and 94.

[4] See p. 93.

[5] As to closing orders, see p. 91.

to any dwelling-house, and to report from time to time to the Council such particulars as the Council may require respecting any proceedings taken by the authority in every such case. And if in any case the Council are of opinion that the authority have not done their duty, they have the same power to take the matter into their own hands that a county council in other parts of the country has, where a rural sanitary authority has made default under similar circumstances. Moreover, when it appears to them, whether in the exercise of the powers of a sanitary authority, or on the representation of the authority or otherwise, that a scheme [1] under Part II. of the Act ought to be made, they are empowered by Section 46 to take proceedings for preparing and obtaining the confirmation of a scheme, in which case all the expenses of the same will be borne by the county fund, unless the Council consider that such expenses, or a contribution in respect of them, ought to be paid or made by the sanitary authority, in which case they may apply to the Secretary of State, who, if satisfied that, having regard to the size of the area, and the number, position, structure, sanitary condition, and neighbourhood of the buildings to be dealt with, the sanitary authority ought to pay or make a contribution in respect of the expenses, may order such payment or contribution to be made. The power of making a similar appeal to the Secretary of State is given by the same section to any sanitary authority in London other than the Commissioners of Sewers of the City of London, who may themselves carry out a scheme under this part of the Act, and who may consider that the expenses of carrying it into effect ought to be paid, or that a contribution in respect of it should be paid, by the County Council. And the County Council are also empowered, if they see fit, without any such appeal, to pay the expenses, or make a contribution towards them.

Contribution by County Council to schemes under Part II., Sec. 46.

These provisions ought to a great extent to remove the difficulties in the carrying out by sanitary authorities of Part II. of the Act. They enable those authorities to obtain contributions from the County Council where it is reasonable that such contributions should be made, and at the same time they enable the County Council to intervene where the sanitary authority neglect to do their duty.

Powers and duties of County Council under Part I. of the Act.

Assuming that the case is one which is of sufficient importance to the County of London to justify proceedings being taken under Part I. of the Act, the County Council have the same powers [2] and duties under that part of the Act as an urban sanitary authority, with certain modifications.

By whom representations may be made (Sec. 5 (1)).

The first of these modifications is that the official representation by means of which the Council are to be set in motion must be made either by the medical officer of health of the Council, or by any medical officer of health in London.

Provision of accommodation for persons of working class displaced (Sec. 11 (1)).

Another is that more stringent conditions are imposed by the Act as regards the provision which must be made for the accommodation of the persons of the working class who are displaced by the improvement schemes than are imposed on other parts of the country.[3] In London, subject to the exceptions stated below, every scheme under Part I. must provide for the accommodation of at least as many persons of the working class as may be displaced in the area comprised therein in suitable dwellings, which, unless there are any

[1] As to the preparation, confirmation, and carrying into effect of these schemes, see pp. 94 to 96.

[2] As to these powers and duties, see pp. 82 to 88.

[3] As to the conditions imposed in other parts of the country, see p. 84.

special reasons to the contrary, must be situate within the limits of the same area, or in the vicinity thereof. Provided that (*a*) where it is proved to the satisfaction of the Secretary of State, on an application to authorise a scheme, that equally convenient accommodation can be provided for any persons of the working class displaced by the scheme at some place other than within the area or the immediate vicinity of the area comprised in the scheme, and that the requisite accommodation has been or is about to be forthwith provided, either by the County Council or by any other person or body of persons, the Secretary of State may authorise the scheme, and the requirements of the Act with respect to providing accommodation for persons of the working class will be deemed to be complied with to the extent to which accommodation is so provided; and (*b*) where the County Council apply for a dispensation under this section, and the officer conducting the local inquiry directed by the Secretary of State reports that it is expedient, having regard to the special circumstances of the locality, and to the number of artisans and others belonging to the working class dwelling within the area and being employed within a mile thereof, that a modification should be made, the Secretary of State, without prejudice to the other powers conferred on him by Part I. of the Act, may in the provisional order authorising the scheme dispense altogether with the obligation of the County Council to provide for the accommodation of the persons of the working class who may be displaced by the scheme to such extent as he may think expedient, having regard to the special circumstances mentioned above, *but not exceeding one-half of the persons so displaced.*

Powers of County Council under Part III. of the Act.

As already mentioned, the County Council are outside the City of London the local authority for the purposes of Part III. of the Act. Their powers under this part of the Act will be found on reference to pages 96 to 98.

County Council the local authority under Sec. 48 of the Merchant Shipping (Fishing Boats) Act, 1883.

The County Council are also the local authority for the purposes of Section 48 [1] of the Merchant Shipping (Fishing Boats) Act, 1883, and are under the same obligation to make bye-laws and regulations with reference to seamen's lodgings under that enactment as attaches to sanitary authorities in whose districts seaport towns are situate.

(*h*) The Metropolitan Building Acts, 1855–1882

Powers of County Council as regards district surveyors (Metropolitan Building Act, 1855, Secs. 31, 32).

For the purposes of the Metropolitan Building Acts, London is divided into districts,[2] each superintended by a district surveyor, whose duty it is to see that all erections, and all additions and alterations to the buildings to which those Acts apply are carried out in accordance with the law. The appointments of these surveyors are made by the County Council, who may alter the limits of any of these districts or unite any two or more districts together, and who may dismiss or suspend any district surveyor appointed since August 14, 1855, and pay such compensation as they may think fit to any surveyor who may be deprived of office in consequence of any alteration of districts.

Fees of district surveyors (Secs. 49–51, and 65).

These surveyors, where they are not paid by fixed salaries, are remunerated by fees paid by the builders, owners, or occupiers of the buildings inspected, which fees may not be more, although, if so determined by

[1] As to the provisions of this section, see p. 80.

[2] The number of these districts on December 31, 1888, was 74. See p. 97 of the *Report of the Metropolitan Board of Works* for the year ending at that date.

the County Council, they may be less than those prescribed by the Act of 1855. The County Council has also the power to determine the amount of any fee paid to the surveyor in respect of special services for which no fee is prescribed by the Act. Where the surveyor is paid by salary, it is his duty to pay all fees received by him into the hands of the Superintending Architect of Metropolitan Buildings.

District surveyors to make monthly returns to the County Council (Secs. 52 and 53).

These surveyors are required to make monthly returns to the County Council of the notices and complaints received by them relative to the business of their districts, and of the results thereof, and of all matters brought by them before the justices, and of all the works supervised and special services performed by them, and of all fees charged or received in respect thereof. These returns must specify the description and locality of every building built, rebuilt, enlarged, or altered, or on which any work has been done under the supervision of the surveyor, with the particular nature of every work in respect of which any fee has been charged or received. They must from time to time be examined by the Superintending Architect of Metropolitan Buildings, or such other officer as the Council may appoint, whose duty it is to report to the Council in the event of any unauthorised fee having been charged, or any account appearing in any respect to be fraudulent or untrue.

Returns to be examined by Superintending Architect (Sec. 54).

Qualifications of district surveyors (Sec. 33).

No person who has not already filled the office of district surveyor or obtained a certificate of competency prior to 1855, under the old Metropolitan Building Act (7 and 8 Vict. c. 84), is qualified to hold the office of district surveyor unless he has received a certificate of competency to perform such duties from the Institute of British Architects, or has been examined in such other manner as the County Council direct, and been found competent in such examination.

Office of district surveyors (Sec. 34).

Every district surveyor must have and maintain an office at his own expense in such part of his district as may be approved by the County Council.

Power to appoint deputy with consent of County Council (Sec. 35).

If he is prevented by illness, infirmity, or other unavoidable circumstance from attending to the duties of his office, he may, with the consent of the County Council, appoint some other person as his deputy to perform all his duties for such time as he may be prevented from executing them.

Assistant surveyor may be appointed by County Council on emergency (Sec. 36).

If at any time it appears to the County Council that on account of the pressure of business in any district, or on any other account, the surveyor of the district cannot discharge his duties promptly and efficiently, the Council may direct any other district surveyor to assist him, or appoint some other person to assist him, who will be entitled to receive all fees payable in respect of the services performed by him.

District surveyor not to act in case of works under his professional superintendence (Sec. 37).

If any building is executed or any work done to, in, or upon any building by or under the superintendence of any district surveyor, acting professionally or on his own private account, such surveyor must not survey it for the purposes of the Metropolitan Building Acts or act as district surveyor in respect thereof, but must give notice thereof to the County Council, who will then appoint some other district surveyor to act in respect of the matter.

Duties of district surveyor (Secs. 31, 38, and 39).

Subject to certain exemptions contained in Section 6 of the Metropolitan Building Act, 1855, every building and every work done to, in, or upon any building is subject to the supervision of the district surveyor appointed to the district in which the building is situate. Two days' notice is required to be given to him before any such building or

work is commenced, or resumed after suspension for three months, or before any new builder is employed thereon ; and on receipt of such notice, and also in the event of any work affected by the rules of the Metropolitan Building Acts in respect of which no notice has been given being observed by or made known to him, and also from time to time during the progress of any works affected by such rules, as often as may be necessary for securing the due observance of the rules, it is his duty to survey the building or work, and to cause all the rules of the Acts to be observed.

Powers of entry (Secs. 42 and 43).

For the above purposes he has the necessary powers of entry at all reasonable times, and a penalty not exceeding 20*l.* is imposed on any person refusing him admission, or neglecting to afford him all reasonable assistance.

Proceedings in case of irregularity (Secs. 45 and 46).

If in erecting any building, or in doing any work to any building, anything is done contrary to any of the rules of the Metropolitan Building Acts, or anything required by those Acts is omitted to be done, or in cases where due notice has not been given, if the district surveyor on surveying or inspecting any building or work finds that the same is so far advanced that he cannot ascertain whether anything has been done contrary to the rules of the Acts, or whether there has been any omission to comply with those rules, he must give the builder forty-eight hours' notice to cause anything done contrary to the rules of the Acts to be amended, or to do anything required to be done by the Acts which has been omitted, or to cause so much of the building or work as prevents him from inspecting or surveying it to be to a sufficient extent cut into, laid open, or pulled down. This notice may be enforced by the district surveyor by summary proceedings before a magistrate.

Subject-matter of rules in Metropolitan Building Acts.

The greater part of the rules contained in the Metropolitan Building Acts relate to the matters with respect to which urban sanitary authorities are empowered to make bye-laws by Section 157 (2), (3)[1] of the Public Health Act, 1875. As stated under that section, there are some advantages in embodying regulations of this character in statutory enactments ; but so far as the metropolis is concerned it is a question whether these advantages have not been counterbalanced by the difficulty of altering these enactments as sanitary science has progressed. Many of the regulations in the Metropolitan Building Acts are more or less antiquated, the great mass of them having been framed as far back as 1855. Had they been embodied in bye-laws, they could have from time to time been altered as occasion has required, without the necessity of obtaining the consent of Parliament.

Power of County Council as regards thickness of walls (Secs. 55–60).

To some extent, indeed, power is reserved in the Acts to make modifications in their provisions. For example, the first schedule to the Act of 1855 contains certain rules as to the thickness of walls of buildings. These rules the County Council may alter by order made with the consent of Her Majesty in Council. The County Council may also in certain cases approve of iron buildings or other buildings to which these rules are inapplicable, provided that such buildings are erected according to plans and particulars approved by the County Council.

Power of County Council to make bye-laws as to sites and foundations and substances of walls (Metropolis Manage-

Moreover, by Section 16 of the Metropolis Management and Building Acts Amendment Act, 1878, the County Council are empowered to supplement the provisions of these Acts by means of bye-laws with respect to sites and foundations, and the mode in which, and the materials with which they are to be made, formed, excavated, filled up,

[1] The purposes for which these bye-laws may be made are enumerated at p. 109.

ment and Building Acts Amendment Act, 1878, Sec. 16).

prepared, and completed for securing stability, the prevention of fires, and for purposes of health; and also with respect to the description and quality of the substances of which walls are authorised to be constructed for securing stability, the prevention of fires, and for purposes of health; and with respect to the duties of district surveyors in connection with these matters. These bye-laws are required to be confirmed by the Secretary of State.

(*i*) Offensive Trades

Restrictions on establishment of offensive businesses (Public Health (London) Act, 1891, Sec. 19 (1)).

The provisions in force in London against the establishment and carrying on of certain offensive trades are more stringent than the corresponding provisions of the Public Health Act which are in force outside the metropolis. Section 19 (1) of the Public Health (London) Act, 1891, provides that if any person (*a*) establishes anew the following businesses or any of them—i.e. blood-boiler, bone-boiler, manure manufacturer, soap-boiler, tallow-melter, or knacker;[1] or (*b*) establishes anew, without the sanction of the County Council, the following businesses, or any of them; that is to say, the business of fellmonger, tripe-boiler, slaughterer[2] of cattle or horses, or any other business which the County Council[3] may declare by order confirmed by the Local Government Board and published in the 'London Gazette' to be an offensive business, he shall be liable to a fine not exceeding 50*l.* in respect of the establishment thereof, and any person carrying on the same when established shall be liable to a fine not exceeding 50*l.* for every day during which he so carries on the same.

Exemption of certain soap-boiling establishments (2).

This enactment will not, however, render any person liable to a fine for establishing anew with the sanction of the County Council, or carrying on the business of soap-boiler, if and so long as that business is a business in which tallow or any animal fat or oil other than olein is not used by admixture with alkali for the production of soap.

Sanction of County Council (3).

The County Council must give their sanction under this section by order, but at least fourteen days before making any such order they must make public the application for it by serving on the sanitary authority within whose district the premises on which the business is proposed to be established are situate, and by advertising, notice of the application and of the time and place at which they will be willing to hear all persons objecting to the order, and by causing a copy of the notice to be affixed on a conspicuous part of the premises; and they must consider any objections made at that time and place, and grant or withhold their sanction as they think expedient.

Power to make bye-laws for regulation of businesses (4).

In addition to these restrictions on the establishment of offensive businesses, the Act provides for the regulation of such of these businesses as may under its provisions be lawfully carried on in London. Subsection (4) of the above-mentioned section enables the County

[1] Section 141 defines 'knacker' as meaning a person whose business it is to kill any horse, ass, or mule, or cattle which is not killed for the purpose of its flesh being used as butchers' meat. 'Cattle' is defined as including sheep, goats, and swine.

[2] The same section defines 'slaughterer of cattle or horses' as a person whose business it is to kill any description of cattle or horses, asses, or mules for the purpose of the flesh being used as butchers' meat.

[3] In the application of this section to the City of London, the Commissioners of Sewers are substituted for the County Council and the consolidated rate for the county fund.

Council to make bye-laws[1] for regulating the conduct of these businesses, and the structure of the premises in which they are being carried on, and the mode in which applications are to be made for sanction to establish them.

Power of Petty Sessions to cause business to be discontinued (5).

Any such bye-laws may empower a Petty Sessional Court by summary order to deprive any person, either temporarily or permanently, of the right of carrying on any business to which such bye-law relates, as a punishment for breaking the same, and any person disobeying such order will be liable to a fine not exceeding 50*l.* for every day during which such disobedience continues.

Power of sanitary authority to object to bye-laws (6).

Any sanitary authority or person aggrieved by any proposed bye-law under this section, or by any proposed alteration or repeal of a bye-law, may forward notice of his objection to the Local Government Board,[2] who are required to consider the same.

Fees (7).

Such fee, not exceeding 40*s.*, as the County Council may think fit will be charged for an order of the Council under this section.

Definition of 'established anew' (8).

For the purposes of the section a business will be decreed to be established anew, not only if it is established newly, but also if it is removed from one set of premises to any other premises, or if it is renewed on the same set of premises after having been discontinued for a period of nine months or upwards, or if any premises on which it is for the time being carried on are enlarged without the sanction of the County Council; but a business will not be deemed to be established anew on any premises by reason only that the ownership of such premises is wholly or partially changed, or that the building in which it is established, having been wholly or partially pulled down or burnt down, has been reconstructed without any extension of its area.

Exemption of certain markets, &c. (9).

Nothing in the section will render an order of the County Council necessary to authorise the slaughter of cattle at the Metropolitan Cattle Market, or at the cattle market at Deptford, or authorise the making of bye-laws affecting either of those markets, or the slaughter-houses erected thereat either before or after the commencement[3] of the Act.

Licensing of cow-houses and slaughter-houses (Sec. 20 (1)).

Section 20 of the same Act provides that a person carrying on the business of a slaughterer of cattle or of horses, knacker or dairyman,[4] may not use any premises in London (outside the City of London) as a slaughter-house or knacker's yard, or a cow-house or place for the keeping of cows, without a licence from the County Council; and if he does, he will be liable to a penalty not exceeding 5*l.* for each offence; and the fact that cattle have been taken into unlicensed premises will be *primâ facie* evidence that an offence under the section has been committed.

Duration of licence (2).

A licence under this section will expire on such day in every year as the County Council may fix; and when a licence is first granted, it will expire on the day so fixed, which, secondly, occurs after the grant thereof, and a fee not exceeding 5*s.* may be charged for the licence.

Not less than fourteen days before a licence for any premises is granted or renewed under this section, notice of the intention to apply

[1] As to the general provisions of the Act relating to these bye-laws, see p. 285.

[2] The Local Government Board are the central authority who confirm the bye-laws.

[3] I.e. January 1, 1892.

[4] 'Dairyman' is defined by Section 141 of the Act as including any cowkeeper, purveyor of milk, or occupier of a dairy.

for it must be served on the sanitary authority of the district in which the premises are situate; and that authority may, if they think fit, show cause against the grant or renewal of the licence.

An objection may not be entertained to the renewal of any licence under this section, unless seven days' previous notice of the objection has been served on the applicant; subject to this exception—that on an objection having been made of which notice has not been given, the County Council may, if they think it just so to do, direct notice thereof to be served on the applicant, and adjourn the question of the renewal to a further day, and require the attendance of the applicant on that day, and then hear the case and consider the objection, as if the notice had been duly given.

When a committee of the County Council determine to refuse or to recommend the Council to refuse the renewal of any licence under this section, the Council must, on written application made within seven days after such determination is made known to such applicant, hear the applicant against such refusal.

For the purposes of this section a licence will be deemed to be renewed, where a further licence is granted, in immediate succession to a prior licence for the same premises.

The section does not extend to slaughter-houses erected before or after the commencement of the Act in the Metropolitan Cattle Market under the authority of the Metropolitan Market Act, 1851, or the Metropolitan Market Act, 1857.

Power of County Council to take proceedings against sanitary authorities in respect of certain nuisances (Sec. 22).

Section 21 of the Act imposes on sanitary authorities the duty of taking legal proceedings in every case where any manufactory, building, or premises used for any trade, business, process, or manufacture causing effluvia is certified to them by their medical officer of health, or by any two legally qualified medical practitioners, or by any ten inhabitants of the district of such authority, to be a nuisance or injurious or dangerous to the health of any of the inhabitants of the district. Section 22 of the Act provides that the removal of house-refuse and street-refuse by a sanitary authority, when collected or deposited by that authority, shall be deemed to be a business carried on by that authority under Section 21, and that a complaint or proceedings under that section in relation to any such business may be made or taken by the County Council in like manner as if the Council were a sanitary authority. The same section declares that any premises used by a sanitary authority for the treatment or disposal of any street-refuse or house-refuse, as distinct from the removal thereof, which are a nuisance or injurious or dangerous to health, shall be a nuisance liable to be dealt with summarily under the Act; and for the purpose of the application thereto of the provisions [1] of the Act relating to such nuisances the County Council will be deemed to be a sanitary authority. These provisions will enable the County Council to deal with a class of nuisance which is not unfrequently alleged to be committed by sanitary authorities themselves in the discharge of their duties with respect to the removal and disposal of house and street refuse.

(*j*) Dairies, Cowsheds, and Milkshops

Powers of County Council as to dairies,

Prior to January 1, 1892, the County Council, as the successors of the Metropolitan Board of Works, were the local authority for so much

[1] As to these provisions, see pp. 312 to 314.

of the metropolis as is not included in the City of London, for the purposes of the Contagious Diseases [1] (Animals) Acts, 1878 and 1886, and the orders which have been issued thereunder by the Privy Council and the Local Government Board. But by the Public Health (London) Act, 1891, Section 34 of the Contagious Diseases (Animals) Act, 1878, and Section 9 of the Contagious Diseases (Animals) Act, 1886, have been repealed [2] so far as they apply to London; and by Section 28 of the same Act the same powers as were given by those sections are given to the Local Government Board to make orders and regulations for dairies, and to the County Council and the Corporation of London to make bye-laws applicable to so much of the administrative county of London as is not included in the City, and in the City respectively.

cowsheds, and milk-shops (Sec. 28).

(*k*) The Margarine Act, 1887

This Act requires every manufactory of margarine to be registered by the name of occupier with the County Council, and imposes penalties on any owner or occupier who carries on any manufacture of margarine in an unregistered manufactory.

Manufactories of margarine to be registered with County Council.

(*l*) Parks, Pleasure-grounds, and Open Spaces

The Acts of Parliament relating to parks, pleasure grounds, and open spaces which are vested in or may be acquired by the County Council are too numerous to admit of reference being made to all of them in the present work. Many of them are special Acts relating to particular parks and grounds, e.g., to the Victoria, Finsbury, Battersea, and Kennington Parks, Hampstead Heath, Wormwood Scrubs, and Plumstead Common. Others, however, are general Acts, affording facilities to the County Council and the Metropolitan Vestries and District Boards, for the acquisition and regulation of pleasure-grounds and open spaces for the use of the public.

Powers of County Council as regards parks, pleasure-grounds, and open spaces.

The earliest of these is the Gardens in Towns Protection Act, 1863, Section 1 of which provides that any enclosed garden or ornamental ground in the metropolis (except in the City of London, where the Act is to be carried into effect by the Corporation), if it has been set apart otherwise than by the revocable permission of the owner thereof, in any public square, crescent, circus, street, or other public place for the use and enjoyment of the inhabitants thereof, and is not kept in proper order, may be dealt with by the Metropolitan Board of Works (now the County Council) and vested in a committee of the rated inhabitants of the houses surrounding the same, to be kept as a garden or ornamental ground for the use of such inhabitants at the cost of the vestry or district board. In the event of the inhabitants not accepting the charge, it is the duty of the County Council to vest the ground in the vestry or district board, who are required thenceforth to take charge of it and maintain it as an open space or street in such manner as may appear to them most advantageous to the public, subject to the approval of the County Council.

Gardens in certain squares, &c., to be dealt with by County Council, and vested in committee of rated inhabitants, or in vestry or district board (Gardens in Towns Protection Act, 1863, Sec. 1).

[1] The provisions of these Acts and orders will be found at pp. 143 to 147.

[2] Notwithstanding this repeal, the orders of the Privy Council and the Local Government Board made under the repealed enactments (as to which, see pp. 144 to 146, and the regulations made in pursuance of those orders, will continue to be of the same validity and effect as if they had been made under the Act repealing them.

Protection of gardens, &c., from being built upon (Sec. 2).

Section 2 of the same Act enables the County Council and the Corporation of London, in the respective areas over which they have jurisdiction under the Act, to take over, on the request of the persons entitled thereto, the right to require any garden or ornamental ground to which the Act applies to be kept and maintained as such, and to protect it from being built upon.

Bye-laws for protection of gardens, &c. (Sec. 4).

Where any such garden or ground is managed by a committee of inhabitants, Section 4 of the Act enables the committee to make bye-laws, which must be confirmed by one of the judges of the Superior Courts, or by the Quarter Sessions, for the management of the same, and the preservation of the trees, shrubs, plants, flowers, rails, fences, seats, summer-houses, and other things therein, which bye-laws may be enforced summarily by penalties not exceeding 5*l.* Section 5 of the Act also empowers the police to apprehend any person throwing any rubbish into any such garden, or trespassing therein, or getting over the railings and fence, or stealing or damaging the flowers and plants, or committing any nuisance therein : the offender in any such case being liable to a penalty not exceeding 40*s.*, or to imprisonment for any period not exceeding fourteen days.

Power of police to apprehend persons doing damage (Sec. 5).

Power of County Council under Metropolis (Open Spaces) Act, Metropolis (Open Spaces) Act, 1877 (Sec. 1).

The next Acts to which it is necessary to draw attention in connection with this question are the Metropolis (Open Spaces) Acts, 1877 and 1881, as amended by the Open Spaces Act, 1887, to which reference has already been made [1] in describing the powers and duties of sanitary authorities in relation to the provision of open spaces. The first of these Acts enabled the Metropolitan Board of Works (now the County Council), by purchase on voluntary sale or by gift of the persons legally entitled to dispose of the same, to acquire or accept the ownership of any open spaces, whether inclosed within rails or palings or uninclosed, situated in the metropolis, and to hold the same in trust for the perpetual use thereof by the public for exercise or recreation, and from time to time to make bye-laws [2] for the regulation of such spaces, making provision by such bye-laws for the removal of any person infringing any such bye-law.

Power of owners and occupiers to convey open spaces to County Council (Sec. 2).

The same Act provided that where any open spaces are used as places of exercise or recreation by the inhabitants of certain houses, and the property and right of user is vested in one or more persons as owners or occupiers of such houses, such owners and occupiers (if any) may convey to the Metropolitan Board of Works (now the County Council) in trust for the public, the right to enter upon and use and enjoy such open spaces, subject to such terms and conditions as may be agreed upon.

Act in City of London to be executed by the Corporation (Sec. 5).

The same Act provided that in the City of London its powers should be executed by the Corporation of London.

Definition of 'open space' (Metropolis Open Spaces Act, 1881, Sec. 1).

The Metropolis (Open Spaces) Act, 1881, which is to be construed as one with this Act, defines 'open space' as meaning any land (whether inclosed or uninclosed) which is not built on, and which is laid out as a garden or is used for purposes of recreation, or lies waste and unoccupied.

Power to transfer open spaces and dis-

It gives further facilities to trustees and managing bodies to transfer open spaces and disused burial-grounds[3] to the County Council or to the vestries and district boards of the parishes or districts in

[1] See p. 154.

[2] These bye-laws must be made in the same manner and subject to the same conditions as bye-laws by the County Council under the Metropolis Management Act, 1855 (see p. 279).

[3] 'Burial-ground' is defined by the Act, as amended by the Open Spaces Act, 1889, as including any ground, whether consecrated or not, which has been at any time set apart for the purposes of interment.

which they are situate, to the end that they may be preserved for the enjoyment of the public; such transfers being either for valuable or nominal consideration, or by way of gift. The open spaces and disused burial-grounds when so transferred are to be held and administered by the Council, vestry, or board with a view to the enjoyment of the same by the public in an open condition, free from buildings and under proper control and regulation, and for no other purpose; and it is the duty of these authorities to inclose and keep the same inclosed with proper railings and gates; and they may drain, level, lay out, turf, plant, ornament, light, seat, and otherwise improve the same, and do all such works and things, and employ such officers and servants, as may be requisite for these purposes or any of them. None of these powers may, however, be exercised with reference to any consecrated ground until a faculty or licence for that behalf has first been obtained from the bishop, which may extend to the removal of any tombstone or monument, under such conditions and subject to such restrictions as to the bishop may seem fit.

used burial-grounds to County Council, or vestry, or district board (Secs. 2–4).

Open spaces, &c., to be kept in an open condition free from buildings (Sec. 5).

Faculty to be obtained where the ground is consecrated.

The County Council and any vestry or district board may make bye-laws for the regulation of any open space or burial-ground in or over which they have acquired any estate, interest, or control under the provisions of this Act, and of the days and times of admission thereto, and the preservation of order and prevention of nuisances therein.

Power to make bye-laws (Sec. 6).

The provisions of the Act may be carried out jointly, where the open space is in one parish or district, by the County Council and the vestry or district board as the case may be; and where it is situate in two or more parishes or districts by the vestries and district boards of such parishes and districts, either with or without the County Council; and the authorities jointly carrying out the Act may enter into any agreement, on such terms as may be arranged between them, for so doing, and for defraying the expenses of the execution of the Act.

County Council and vestry or district boards may carry out the Act jointly (Sec. 7).

The above powers, it will be observed, are simply permissive. Section 9 of the Act expressly provides that no estate, interest, or right of a profitable or beneficial nature in, over, or affecting an open space or burial-ground may, without the consent of the body or person entitled thereto, be taken away or injuriously affected by anything done under the Act without compensation being paid for the same by the County Council or the vestry, or district board, such compensation being ascertained in case of difference in accordance with the provisions of the Lands Clauses Consolidation Acts.

Provision for compensation (Sec. 9).

The powers given to the County Council by this Act are enlarged by the Open Spaces Act, 1887, Section 12 of which enables the Council to purchase or take on lease, lay out, plant, improve, and maintain lands for the purpose of being used as public walks or public pleasure-grounds, and to support or contribute to the support of public walks or pleasure-grounds provided by any person whatsoever. This is in part the same power as that given to urban sanitary authorities by the first paragraph[1] of Section 164 of the Public Health Act, 1875.

General power of County Council to acquire lands for public walks and pleasure-grounds (Open Spaces Act, 1887, Sec. 12).

The Open Spaces Act, 1887, also amended and extended the Metropolis (Open Spaces) Acts, 1877 and 1881, and the law relating to disused[2]

Other amendments obtained in the Act (Secs. 2 & 3).

[1] See pp. 152 and 154 as to these powers, and also as to the cases in which gifts and bequests of money for the purposes of public parks and recreation-grounds are exempted from the operations of the Mortmain Acts.

[2] 'Disused burial-ground' means any burial-ground which is no longer used for interments, whether or not it has been partially or wholly closed for burials under the provisions of any statute or order in Council.

burial-grounds in several respects, to which attention has already[1] been drawn in dealing with the powers and duties of urban and rural sanitary authorities; and it enables the County Council to exercise all the powers given to them by the Metropolis (Open Spaces) Act, 1881, or that Act respecting open spaces and burial-grounds transferred to them in pursuance of those Acts in respect of any open spaces and burial-grounds of a similar nature vested in them in pursuance of any other statute, or of which they are the owners.

Powers as regards open spaces, &c., already vested in County Councils (Sec. 11).

(*m*) Commons

Powers of County Council as regards schemes under Metropolitan Commons Acts;

The County Council are the local authority for the purposes of the Metropolitan Commons Acts, so far as these Acts relate to metropolitan[2] commons wholly or partly situate within the metropolis. These Acts prohibit the Inclosure Commissioners (now the Board of Agriculture) from entertaining any application for the inclosure of a metropolitan common, or any part thereof; and enable schemes for the establishment of local management with a view to the expenditure of money on the drainage, levelling and improvement of a metropolitan common, and to the making of bye-laws and regulations for the prevention of nuisances, and the preservation of order therein, to be made, on memorials presented to the Board of Agriculture by the lord of the manor or by any commoners, or by the local authority, or in case of a common extending into the districts of two or more local authorities by any one or more of such bodies. These schemes are made after local inquiries by assistant commissioners, and are of no effect until confirmed by Parliament. When any such scheme has been confirmed, the local authority may in relation to any metropolitan common for which they are the local authority, and the County Council may in relation to any metropolitan common, although not one for which they are the local authority, contribute such amount as they think fit (in a gross sum or by annual payments or otherwise) towards the expense of executing the scheme, including the payment of the compensation, if any, to be paid in pursuance thereof.

Powers of County Council to acquire and hold common rights (Metropolitan Commons Act, 1878, Sec. 2).

In addition to these powers, the County Council, under Section 2 of the Metropolitan Commons Act, 1878, have, in respect of any common situate within the metropolis, the same power to purchase and hold, with a view to prevent the extinction of the rights of common, any saleable rights in common, or any tenement of a commoner having annexed thereto rights of common, as is conferred by Section[3] 8 of the Commons Act, 1876, upon an urban sanitary authority in respect of a suburban common.

Schemes confirmed under Metropolitan Commons Acts.

Amongst the schemes which have been confirmed under the Metropolitan Commons Acts relating to metropolitan commons within the metropolis are schemes for the management of Blackheath, Clapham Common, Streatham Common, Shepherd's Bush Common, and Hackney Commons.

(*n*) Infectious Disease

Weekly returns of infectious diseases to

By Section 55 (4) of the Public Health (London) Act, 1891, the Metropolitan Asylums Board are required to send weekly to the County

[1] See pp. 197 and 198.

[2] The term 'metropolitan commons' applies to all commons situate within the Metropolitan Police District.

[3] The enactment referred to will be found on p. 155.

Council such returns of the infectious diseases of which they receive certificates[1] in pursuance of that Act as the Council from time to time require.

be furnished to County Council, (Public Health (London) Act, 1891, Sec. 55 (4)).

By Section 56 (6) of the same Act the County Council have, as respects London, the same power of extending the provisions of the Act relating to the notification of infectious disease, and the same power[2] of revoking and varying the extending order, as a sanitary authority have under the Act as respects their district; and the provisions in question, when so extended by the County Council, will be construed as if they had been applied under the Act, as respects every district in London, by the sanitary authority thereof.

Power is also given to the Local Government Board by Section 13 of the London County Council (General Powers) Act, 1893, to assign to the Council any powers and duties under the epidemic regulations[3] made in pursuance of Section 134 of the Public Health Act, 1875, which they may deem desirable should be exercised and performed by the Council. And if the Board are of opinion that any sanitary authority,[4] on whose default the Council have power to proceed and act under the Public Health (London) Act, 1891, is making or is likely to make default in the execution of these regulations, they may by order assign to the Council, for such time as may be specified in the order, such powers and duties of the sanitary authority under the regulations as they may think fit. In such a case the expenses incurred by the Council will be recoverable from the sanitary authority.

(*o*) Mortuaries, etc.

Power to require provisions of places for *post-mortem* examinations (Sec. 90).

The County Council may require any sanitary authority to provide and maintain a proper building (otherwise than at a workhouse) for the reception of dead bodies during the time required to conduct any *post-mortem* examination ordered by any coroner or other constituted authority.

Approval to combinations for provision of mortuaries, &c. (Sec. 91).

Any sanitary authorities may, with the approval of the County Council, execute their duty under the Public Health (London) Act, 1891, with respect to mortuaries and buildings for *post-mortem* examinations, by combining for the purpose thereof, or by contracting for the use by one of the contracting authorities of any such mortuary or building provided by another of such authorities, and may so combine or contract upon such terms as may be agreed upon.

Accommodation for holding of inquests (Sec. 92).

It is the duty of the County Council to provide and maintain proper accommodation for the holding of inquests, and the Council may, by agreement with a sanitary authority, provide and maintain the same in connection with a mortuary or a building for *post-mortem* examinations provided by that authority, and may do so on such terms as may be agreed on with that authority.

Mortuary for unidentified bodies (Sec. 93).

The County Council may also provide and fit up in London one or two suitable buildings to which dead bodies found in London and not identified, together with any clothing, articles, and other things found with or on them, may, on the order of a coroner, be removed, and in which they may be retained and preserved with a view to ultimate identification.

[1] As to these certificates, see p. 323.
[2] See p. 178.
[3] As to these regulations, see pp. 186 to 191.
[4] As to these authorities, see p. 300.

The County Council may provide at these buildings all such appliances as they think expedient for the reception and preservation of bodies; and may make regulations as to the management of the buildings and the bodies, and the conduct of persons employed therein or resorting thereto for the purpose of identifying any body.

(*p*) Defaulting Sanitary Authorities

Power to institute proceedings on default of sanitary authority (Sec. 100).

The County Council, on its being proved to their satisfaction that any sanitary authority, other [1] than the Commissioners of Sewers of the City of London, have made default in doing their duty under the Public Health (London) Act, 1891, with respect to the removal of any nuisance, the institution of any proceedings, or the enforcement of any bye-law, may institute any proceeding and do any act which the authority might have instituted or done for that purpose, and will be entitled to recover from the authority in default all such expenses in and about such proceeding or act as they incur and are not recovered from any other person, and have not been incurred in any unsuccessful proceeding.

Proceedings on complaint to Local Government Board of default of sanitary authority (Sec. 101).

Moreover, where complaint is made by the County Council to the Local Government Board that a sanitary authority, other [1] than the Commissioners of Sewers of the City of London, have made default in executing or enforcing any provisions which it is their duty to execute or enforce of the Public Health (London) Act, 1891, or of any bye-law made in pursuance thereof, the Local Government Board, if satisfied after due inquiry that the authority have been guilty of the alleged default, and that the complaint cannot be remedied under the other provisions[2] of the Act, are required to make an order limiting a time for the performance of the duty of the authority in the matter of the complaint. If such duty is not performed by the time limited in the order, the order may be enforced by writ of *mandamus*, or the Local Government Board may appoint the County Council to perform such duty. When such an appointment is made, the Council will, for the purpose of the execution of their duties thereunder, have all the powers of the defaulting sanitary authority, and all expenses incurred by them in the execution of such duties, together with the cost of the previous proceedings, so far as they are not recovered from any other person, will be a debt from the sanitary authority to the County Council.

(*q*) Promotion and Opposition of Bills in Parliament

Power of County Council to promote Bills (Metropolis Management Act, 1855, Sec. 144).

Section 144 of the Metropolis Management Act, 1855, empowers the County Council, where it appears to them that further powers are required for the purpose of any work for the improvement of the metropolis or public benefit of the inhabitants thereof, to make applications to Parliament for that purpose, and defray the expenses of such applications in the same manner as their other expenses. Doubts having arisen whether this enactment extended to authorise applications for powers of providing parks, pleasure-grounds, places of recreation, and open spaces, Section 10 of the Metropolis Management Act, 1856, provides that the powers given by Section 144 of the Act of 1855 should extend to the last-mentioned applications for the improvement of the metropolis for the public benefit of the inhabitants thereof, and to the expenses

Extension of these powers (Metropolis Management Act, 1856, Sec. 10).

[1] See p. 327.
[2] E.g., under the preceding section.

of all such applications. The number of local Acts obtained by the predecessors of the County Council under these enactments is very large.

Power of opposing Bills in Parliament (Local Government Act, 1888, Sec. 15).

Section 15 of the Local Government Act, 1888, has conferred on the County Council the same powers of opposing Bills in Parliament, and of prosecuting or defending any legal proceedings necessary for the promotion or protection of the inhabitants of the county, as are conferred on the council of a municipal borough by the Municipal[1] Corporations (Borough Funds) Act, 1872; and for these purposes the provisions of that Act will apply subject to this modification—that no consent of the owners and ratepayers will be required for any proceedings under this section.

II. SANITARY POWERS AND DUTIES OF THE METROPOLITAN VESTRIES AND DISTRICT BOARDS

Vestries and district boards, sanitary authorities under the Public Health (London) Act, 1891 (Public Health (London) Act, 1891, Sec. 99).

The metropolitan vestries and district boards are the sanitary authorities for the execution of the Public Health (London) Act, 1891, in the whole of the County of London, with the exception of the City of London, the parish of Woolwich, the Inns of Court, the Charter House and the Close of the Collegiate Church of St. Peter. The most important of their sanitary duties devolve on them under that Act; but they also have many powers under the unconsolidated portions of the Metropolis Management Acts and other statutes.

(*a*) Sewerage and Drainage

Sewers other than those vested in County Council vested in vestries and district boards (Metropolis Management Act, 1855, Sec. 68).

As already mentioned,[2] they are the local authorities of the metropolis for the purposes of the sewerage and drainage other than the main sewerage. By Section 68 of the Metropolis Management Act, 1855, the then existing sewers of the metropolis belonging to the Metropolitan Commissioners of Sewers, with the exception of such of them as were vested by the Act in the Metropolitan Board of Works, were vested in the vestries and district boards, together with all sewers made or to be made within the areas under the jurisdiction of these authorities, except sewers vested or to be vested in the Metropolitan Board of Works (now the County Council).

Duties of vestries and district boards as to sewerage (Sec. 69).

It is the duty of every vestry and district board (subject to the powers[3] by the Metropolis Management Acts vested in the County Council) from time to time to repair and maintain the sewers vested in them or such of them as are not discontinued, closed up, or destroyed, under the powers given by those Acts; and to cause to be made, repaired, and maintained such sewers and works, and such diversions or alterations of sewers and works, as may be necessary for effectually draining their parish or district; and they are empowered to carry any such sewers or works through, across, or under any turnpike road,[4] or any street,[4] or place laid out as, or intended for, a street, or through or under any cellar or vault which may be under the pavement or carriage-way of any street, or into, through, or under any lands whatsoever,[4]

[1] The provisions of this Act are set out on pp. 215 and 216.
[2] See p. 277.
[3] As to these powers, see pp. 277 to 281.
[4] See notes 4, 5 and 6 on page 277, which are applicable to the construction of these sewers, as well as to the construction of sewers by the County Council.

making compensation for any damage done thereby in manner provided by the Act; and they may also from time to time enlarge, contract, raise, lower, arch over, or otherwise improve all or any of the sewers, watercourses, and works, from time to time vested in them or under their control, and discontinue, close up, or destroy such of them as they may deem to have become unnecessary. But they may not make any new sewer without the previous approval of the County Council; and the discontinuance, closing up, destruction or alteration of any sewer must be done so as not to create a nuisance; and if by reason thereof any person is deprived of the lawful use of any covered sewer, they must provide some other sewer or a drain as effectual for his use as the one of which he is deprived. Moreover, when they alter any sewer or provide a new sewer in substitution for a sewer discontinued, closed up, or destroyed, they may contract or otherwise alter the private drains communicating with the sewer so altered, or with the sewer so discontinued, closed up, or destroyed, or may close up and destroy such private drains, and provide new drains in lieu thereof as the circumstances may appear to them to require. But in every case the altered or substituted drains must be as effectual for the use of the person entitled thereto as the drain previously used.

No new sewers to be made without approval of County Council.

Substituted drains or sewers to be provided for use of persons entitled to discontinued sewers or drains.

Extension of these powers in certain cases to areas outside metropolis (Metropolis Management Act, 1862, Sec. 58).

The powers given by the above provisions are extended by Section 58 of the Metropolis Management Act, 1862, so as to authorise the execution, repair, and maintenance in certain cases of works beyond the limits of the metropolis, where such works are for the purpose of continuing or forming part of a work commenced or executed by the vestry or district board within its parish or district. But in these cases the consent in writing of the County Council must be obtained, as well as that of the vestry or district board or authorities of the parish or place through which the work may pass. There is, however, an appeal to the Secretary of State in the event of the latter's consent being withheld.

Gully-holes, &c., to be trapped (Metropolis Management Act, 1855, Sec. 71).

Sewers to be cleansed &c. (Sec. 72).

Every vestry and district board must by providing proper traps [1] or other coverings, or by ventilation, or by such other ways and means as may be practicable for that purpose, prevent the effluvia of sewers from exhaling through gully holes, gratings, or other openings of sewers in any of the streets or other places within their parish or district. They must also cause the sewers vested in them to be constructed, covered, and kept so as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied, and for that purpose they may construct and place either above or under ground such reservoirs, sluices, engines, or other works as may be necessary.

Power of vestry or district board to compel owners to construct drains into sewers within 100 feet of the house or building (Sec. 73).

The powers of vestries and district boards to compel owners of houses and buildings to construct drains communicating with their sewers, are somewhat similar [2] to those vested in sanitary authorities by the Public Health Act. But as they are more elaborate, and differ from the latter powers in some essential respects, it seems desirable to set them out in some detail. If any house or building is found not to be drained by a sufficient drain communicating with and emptying into some sewer to the satisfaction of the vestry or district board, and if a sewer of sufficient size be found within 100 feet of any part of the

[1] No gully or ventilating-shaft connected with any sewer of the County Council may, however, be trapped or covered without notice to, or after objection from, the County Council (see p. 279).

[2] As to these powers, see p. 30.

house or building, the vestry or district board may by notice in writing require the owner to construct and make from such house or building into any such sewer 'a covered drain and such branches thereto of such size, at such level and with such fall, as shall be adequate for the drainage of such house or building and its several floors or stories, and also of its areas, water-closets, privies and offices, if any, and for conveying the soil drainage and wash therefrom into the said sewer, and to provide fit and proper paved or impermeable sloped surfaces for conveying surface water thereto, and fit and proper sinks, and fit and proper syphoned or otherwise trapped inlets and outlets for hindering stench therefrom, and fit and proper water-supply [1] and water-supplying pipes, cisterns, and apparatus for scouring the same and for causing the same to convey away the soil, and fit and proper sand traps, expanding inlets and other apparatus for hindering the entry of improper substances therein, and all other such fit and proper works and arrangements as may appear to the vestry or district board and to their officers requisite to secure the safe and proper working of the said drain, and to prevent the same from obstructing or otherwise injuring or impeding the action of the sewer to which it leads.' And the vestry or district board may cause the works to be inspected while in progress, and from time to time during their execution order such reasonable alterations therein, additions thereto, and abandonment of part or parts thereof, as may to them or their officers appear, on the fuller knowledge afforded by the opening of the ground, requisite to secure the complete and perfect working of such works. If the works are not commenced within twenty-eight days after the notice, and completed with reasonable despatch, they may themselves do the work, and recover the expenses from the owner.

Power of inspection during progress of works.

Power on default to do the work at the cost of owner.

If it appear to the vestry or district board that a group or block of contiguous houses, or of adjacent detached or semi-detached houses, may be drained and improved more economically or advantageously in combination than separately, and a sewer of sufficient size already exist or be about to be constructed within 100 feet of any part of such group or block, they may order the houses to be drained and improved by a combined operation.

Combined drainage of blocks of houses (Sec. 74).

No house or other building may be erected, or rebuilt if pulled down to or below the ground floor, nor may any such house or building be occupied unless its drains have been constructed to the satisfaction of the vestry or district board, and communicate with such sewer as they direct and appoint; or if there be no such sewer existing or intended to be constructed within 100 feet of any part of the site, then to such covered cesspool or other place not being under any dwelling-house, as they may direct; and whenever any house or building is so rebuilt the level of the lowest floor must be raised sufficiently to allow of the construction of such a drain and such branches thereto and other works and apparatus as they are authorised to require, and for that purpose the levels must be taken and determined under their direction.

No house to be built or re-built without drains to the satisfaction of vestry or district board (Sec. 75).

These provisions, it will be observed, are limited to houses and buildings erected or rebuilt after the passing of the Metropolis Management Act, 1855. Section 73 of that Act, on the other hand, applies to all houses and buildings whether erected before or after the passing of

Temporary provision for drainage into cesspools or tanks wherever sewers within 200

[1] As to the powers of vestries and district boards to deal with houses without a proper water-supply, see p. 306.

feet (Metropolis Management Act, 1862, Sec. 66).

the Act, but it only enables the vestry or district board to require such houses or buildings to be drained into sewers within 200 feet of any part of the house or building. The vestries and district boards had therefore no power to require houses or buildings erected before the passing of the Act of 1855 to drain into cesspools. Nor had they any power to require the cesspools or places, into which houses and buildings might be required to drain under Section 75 of the Act of 1855, to be properly constructed. Section 66 of the Metropolis Management Act, 1862, therefore, with a view of curing these defects, provides that when any house or other building, whether erected before or after the passing of that Act, is without sufficient drainage, and there is no proper sewer within 200 feet of any part of it, the vestry or district board may by notice in writing require the owner to construct and lay therefrom into a covered water-tight cesspool or tank or other suitable receptacle not being under a house or within such distance from a house as they may direct, and to construct such cesspool, tank or receptacle, and that the provisions in the foregoing sections with respect to the laying of house drains at the expense of the owners and the recovery of such expenses shall be extended and apply to the making of such cesspools, tanks, receptacles and drains, and the orders of the vestries and district boards in relation thereto and the expenses thereof.

Seven days' notice to be given to vestry or district board before commencing foundations of houses or rebuilding or making of drains (Metropolis Management Act, 1855, Sec. 76).

Before beginning to lay or dig out the foundation of any new house or building, or to rebuild any house or building, and also before making any drain for the purpose of draining directly or indirectly into any sewer under their jurisdiction, seven days' notice in writing must be given to the vestry or district board; and every such foundation must be laid at such level as will permit the drainage of the house or building in compliance with the Act, and as they may order; and every such drain must be made in such direction, manner, and form, and of such materials and workmanship, and with such branches thereto and other connected works and apparatus as required by the Act, and as they may order, and the making of it must be under their survey and control; and they must make their order in relation to these matters and cause the same to be notified to the person from whom the notice has been received within seven days [1] of the receipt of the notice; and if the notice be not given, or the house, building or drain, or branches thereto, or other connected works and apparatus, or water-supply be begun, erected, made, or provided in any respect contrary to any order of theirs made and notified as above or the provisions of the Act, the vestry or district board may cause the house or building to be demolished or altered, and such drain or branches thereto and other connected works and apparatus and water-supply to be relaid, amended, or remade, or in the event of omission, added, as the case may require, and recover the expenses from the owner.

Power to make drains at expense of owners and occupiers (Sec. 79).

Vestries and district boards may by agreement make, alter, or enlarge drains for owners and occupiers, and recover the cost price of the work as certified by their surveyor.

Power to contribute to cost of sewers (Metropolis Management Act, 1862, Sec. 44).

They may also, if they think proper and just to do so, contribute to the cost of any sewers constructed by the owners or occupiers for the purpose of draining their lands or premises.

[1] This period may be extended to fifteen days if the surveyor, within three days from the receipt of the notice to the vestry or district board, gives notice to the person from whom the notice is received that the works are not to be proceeded with until after the next meeting of the vestry or district board (see Section 63 of the Metropolis Management Act, 1862).

Plans of new sewers to be submitted to County Council (Sec. 45).

As already mentioned, they must submit plans to the County Council before commencing any sewer. Every such plan must be drawn to such convenient scale as the County Council may direct, and must show the position, course, and dimensions of the proposed sewer with a section or sections thereof, and such other particulars in relation thereto as the County Council may deem necessary and require. And the sewer must not be proceeded with without the approval in writing, or contrary to the direction, of the Council.

Communications with main sewers (Sec. 46).

Three clear days' notice in writing must be given to the County Council by any vestry or district board previously to the connection of any sewer or drain with a main sewer, and the necessary junction or communication for that purpose must be made by the vestry or district board to the satisfaction of the County Council.

Sanction of vestry or district board necessary before private persons may branch sewers into main sewers (Sec. 47).

Every person other than a vestry or district board, intending to make or to branch a sewer either into a sewer vested in the County Council or into a sewer vested in the vestry or district board, must in the first instance lay the plan and section thereof before, and apply for the sanction of, the vestry or district board, and no such sewer may be begun until this sanction has been obtained.

Approval of County Council necessary in these cases (Sec. 48).

Before giving their sanction, the vestry or district board must submit the plan and section to the County Council for their approval in the same manner as if they proposed to construct the sewer; and they must not give their sanction without the approval in writing of the County Council.

Regulations as to branching of drains into main sewers (Sec. 49).

All persons intending to make or branch any drain into a sewer vested in the County Council must, seven clear days before commencing any works for that purpose, make written application to the vestry or district board, accompanied by a plan showing such particulars as may be required by any bye-law [1] or resolution of the County Council; and no such work may be commenced until the sanction in writing of the vestry or district board has been given.

Regulations as to abandonment, alteration, &c., of designs for sewers previously approved (Sec. 50).

Whenever it is desired to abandon either wholly or in part, or to extend, contract, or alter any design for a sewer previously submitted to and approved by the County Council, notice in writing of such desire must be given by the vestry or district board by whom such approval has been obtained to the County Council, accompanied by plans and sections showing the nature of the abandonment, extension, contraction, or alteration desired; and no such abandonment, extension, contraction, or alteration may be made without the previous approval in writing of the County Council; and no person other than a vestry or district board may abandon wholly or in part, or extend, contract, or alter in construction any sewer approved or sanctioned by the County Council, without the previous sanction in writing of the vestry or district board.

Fresh sanction if sewer not constructed within twelve months (Sec. 51).

As has been already mentioned [2] a fresh sanction from the County Council will be necessary if any sewer for which their sanction has been obtained is not constructed within twelve months from the date of the sanction.

Power to make bye-laws as to drains (Metropolis Management Act, 1855, Sec. 202).

In addition to the above powers for the regulation of the sewers and drains of individuals, every vestry and district board has the same power [3] as that given to the County Council by Section 202 of the Metropolis Management Act, 1855, to make, alter, and repeal bye-laws enforceable

[1] As to these bye-laws, see p. 278.
[2] See p. 279.
[3] As to these powers, see p. 279.

by penalties, subject to the provisions [1] of that Act relating to bye-laws, for regulating the dimensions, form, and mode of construction, and the keeping, cleansing, and repairing of the pipes, drains, and other means of communicating with sewers, and the traps and apparatus connected therewith.

Power to purchase lands (Secs. 151, 152).

For the purposes of their sewers and for the other purposes of the Metropolis Management Acts, every vestry or district board has the same power as the County Council to purchase by agreement any land or any right or easement in or over land. But they have no compulsory powers of purchase.

(*b*) Water-supply

Power of vestries and district boards under Public Health (London) Act, 1891.

It has already been stated that the water-supply of London is in the hands of water companies. But under the Public Health (London) Act, 1891, the sanitary authorities under that Act (including the metropolitan vestries and district boards) have certain duties in connection with the closing of houses not properly supplied with water, the preservation of the purity of water, and the closing of polluted wells.

Houses without proper water-supply to be dealt with as nuisances (Sec. 48 (1)).

Section 48 (1) of the Act declares that an occupied house without a proper and sufficient supply of water shall be a nuisance liable to be dealt with summarily under the Act, and if it is a dwelling-house shall be deemed unfit for human habitation.

Section 2 of the same Act provides that for the purposes of the Act any such absence from premises of water-fittings as is a nuisance by virtue of Section 33 of the Metropolis Water Act, 1871, shall be a nuisance liable to be dealt with summarily under the Act.

As will be seen below,[2] it is the duty of the sanitary authority to take proceedings for enforcing the provisions of the Act for the purposes of abating nuisances.

Houses newly erected or rebuilt not to be occupied without certificates that they are properly supplied with water (Sec. 48 (2) (3)).

Section 48 (2) further prohibits the occupation as a dwelling-house of any house which, after the commencement of the Act, is newly erected, or is pulled down to or below the ground floor and rebuilt, until the sanitary authority have certified that it has a proper and sufficient supply of water, either from a water company or by some other means. If the sanitary authority refuse such certificate, or fail to give it within a month after written request from the owner, the owner may apply to a Petty Sessional Court, who, after hearing or giving the sanitary authority an opportunity to be heard, may, if they think the certificate ought to have been granted, make an order authorising the occupation of the house; but unless such order is made, an owner who occupies the house or permits it to be occupied without a certificate will be liable to a fine not exceeding 10*l.*, and to a further fine not exceeding 20*s.* for every day during which it is so occupied, until a proper and sufficient supply of water is provided; but the imposition of this fine will be without prejudice to any proceedings for obtaining a closing order.

Notice by water company to sanitary authority where water-supply is cut off (Sec. 49).

Every water company which lawfully cuts off the water-supply to any inhabited dwelling-house and ceases to supply it with water for non-payment of water rate or other cause, must in every case within twenty-four hours after so doing give notice in writing to the sanitary authority of the district in which the house is situated. Any company which neglects to comply with this enactment will be liable to a

[1] See note 1, p. 279.

[2] See p. 312.

penalty not exceeding 10*l.*, and it will be the duty of the sanitary authority to take proceedings against any defaulting company.

Cleansing of cisterns &c. (Sec. 50).

Every sanitary authority under the Act must make bye-laws[1] for securing the cleanliness and freedom from pollution of tanks, cisterns, and other receptacles used for storing of water used or likely to be used by man for drinking or domestic purposes or for manufacturing drink for the use of man.

Model bye-laws under this section.

The model bye-laws which have been framed by the Local Government Board under this section require the occupier of any premises on which a tank, cistern, or other receptacle is used for storing of water used or likely to be used by man for domestic purposes, or for manufacturing drink for the use of man, to empty and cleanse the same once at least in every six months, and at such other times as may be necessary to keep the same in a cleanly state and free from pollution. They further require him to cause every such tank, cistern, or other receptacle which is erected outside a building, or which, being erected inside a building, is not placed in a suitable chamber or otherwise constructed or placed so as to prevent the pollution of the water therein, to be provided with a proper cover, and to be kept at all times properly covered. In every case where two or more tenants of any premises are entitled to the use in common of any tank, cistern, or other receptacle to which this bye-law applies, the foregoing requirements will apply to the owner instead of the occupier of the premises.

Public fountains, &c. (Sec. 51).

All existing public cisterns, reservoirs, wells, fountains, pumps and works used for the gratuitous supply of water to the inhabitants of the district of any sanitary authority, and not vested in any person or authority other than the sanitary authority, are by Section 51 of the Act vested in and placed under the control of the sanitary authority. The same section, which in other respects very nearly corresponds with Section 64[2] of the Public Health Act, 1875, enables sanitary authorities to maintain the above-mentioned works and plentifully supply them with pure and wholesome water, or substitute, maintain, and plentifully supply with pure and wholesome water other such works equally convenient, and to maintain and supply with water other public cisterns, reservoirs, wells, pumps, and other such works within their district. It further enables the authority to provide and maintain public wells, pumps, and drinking fountains in such convenient and suitable situations as they may deem proper. If any person wilfully damages any of these wells, pumps, or fountains, or any part thereof, he will, in addition to any other punishment to which he is liable, be required to pay to the sanitary authority the expenses of repairing and reinstating the same.

Power to close polluted wells, &c. (Sec. 54).

Section 54 of the Act gives a sanitary authority similar powers to those contained in Section 70[3] of the Public Health Act, 1875, with reference to the taking of proceedings for closing polluted wells, &c. It, however, goes considerably further than the latter section, in so far as it enables the well, tank, cistern, or pump to be closed not only when the water is so polluted as to be injurious to health, but when it is so polluted *or likely to be so polluted* as to be injurious *or dangerous* to health. Moreover, it gives the court no power to allow the water to be used for certain purposes only. On the other hand it imposes a fine not exceeding 20*l.* for disobedience to any order under the section.

[1] These bye-laws were required by Section 142 (3) of the Act to be submitted to the Local Government Board for sanction within six months, from January 1, 1892.

[2] See p. 38.

[3] See p. 41.

(*c*) Water-closets, &c.

The powers and duties of sanitary authorities in London in relation to this matter are very similar to those of sanitary authorities in other parts of the country. As, however, the statutory provisions on this subject which are contained in the Public Health (London) Act, 1891, are in many respects distinctly superior to the older ones in force in the provinces, it seems desirable, where there is any material difference between the two sets of provisions, to set out the metropolitan enactments in full.

Obligations as to provision of water-closets, &c. (Sec. 37).

Section 37 of the Act of 1891 declares that it shall not be lawful newly to erect any house, or to rebuild any house pulled down to or below the ground floor, without a sufficient ashpit[1] furnished with proper doors and coverings, and one or more proper and sufficient water-closets according as circumstances may require, furnished with suitable water-supply and water-supply apparatus, and with suitable trapped soilpan and other suitable works and arrangements so far as may be necessary to insure the efficient operation thereof. Any offender against this enactment will be liable to a fine not exceeding 20*l*. If at any time it appears to the sanitary authority that any house, whether built before or after the commencement of the Act, is without such ashpit or water-closets, the sanitary authority should cause notice to be served on the owner or occupier, requiring him forthwith, or within such reasonable time as is specified in the notice, to provide the same in accordance with the directions in the notice; and if the notice is not complied with, he will be liable to a fine not exceeding 5*l*. and to a further fine not exceeding 40*s*. for each day during which the offence continues; or the sanitary authority, in lieu of proceeding for the fine, may enter on the premises and execute such works as the case may require, and may recover the expenses incurred by them in so doing from the owner of the house

Cases in which privies or earth closets may be provided, or water-closet provided for more than one house.

Where sewerage or water-supply sufficient for a water-closet is not reasonably available, this section will be complied with by the provision of a privy or earth closet; and where a water-closet has, before the commencement of the Act, been and is used in common by the inmates of two or more houses, and in the opinion of the sanitary authority may continue to be so used, they need not require a water-closet to be provided for each house.

Appeal to County Council.

Any person who thinks himself aggrieved by any notice or act of a vestry or district board under this section may appeal[2] to the County Council, whose decision will be final.

Sanitary conveniences for manufactories, &c. (Sec. 38).

The next section of the Act requires every factory, workshop, and workplace, whether erected before or after the passing of the Act, to be provided with suitable and sufficient accommodation in the way of sanitary conveniences. The section is in terms similar to Section 22[3] of the Public Health Acts Amendment Act, 1890.

Bye-laws as to water-closets, &c. (Sec. 39).

Every sanitary authority is required by Section 39 (2) to make bye-laws with respect to the keeping of water-closets supplied with sufficient water for their effective action. The model bye-law of the Local Government Board under this enactment follows the terms of the

[1] 'Ashpit' is defined by Section 141 as meaning any ashpit, dustbin, ashtub, or other receptacle for the deposit of ashes or refuse matter.

[2] As to these appeals, see Section 126 of the Act.

[3] This section will be found on p. 49.

section, and imposes the duty of causing this requirement to be complied with on the occupier of the premises in or for which the water-closet is provided, except in cases where the closet is provided for the use of persons occupying two or more separately occupied premises, and there is a person having the care and control of the closet, in which case the requirement is made to apply to that person.

It is the duty of every sanitary authority to observe and enforce, not only their own bye-laws under this section, but also the bye-laws [1] that are made under and by the County Council; and any directions given by the sanitary authority under the Act must be in accordance with these bye-laws, and so far as they are not so in accordance will be void.

Power of sanitary authority to authorise examination of water-closets, &c. (Sec. 40).

For the purpose of enabling a sanitary authority to enforce the provisions of the Act and the bye-laws made thereunder as to water-closets, privies, earth closets, ashpits,[2] cesspools, water-supply, sinks, traps, siphons, pipes or other works or apparatus connected therewith, Section 40 enables them to examine any of these works upon any premises within their district; and for that purpose, or for the purpose of ascertaining the course of a drain, at all reasonable times by day, after 24 hours' notice has been served on the occupier, or if the premises are unoccupied, on the owner, or in case of emergency without notice, to enter on any premises and cause the ground to be opened in any place they think fit, doing as little damage as may be. If the work is found on examination to be in accordance with the Act and the bye-laws of the County Council and the sanitary authority and the directions of the sanitary authority given in any notice under the Act, and in proper order and condition, the authority must cause the same to be reinstated and made good, as soon as may be, and defray the expenses of examination, reinstating, and making good the same, and pay full compensation for all damages or injuries done or occasioned by the examination; but if on examination any such work is found not to be in proper order or condition, and not to have been made or provided according to the bye-laws and directions, or to be contrary to the Act, the reasonable expenses of the examination must be repaid to the sanitary authority by the person offending, and may be recovered by the authority in a summary manner.

Penalty on offenders, &c. (Sec. 41).

If on the examination any such work is found not to have been made or provided by any person according to the bye-laws of the County Council and sanitary authority and the directions of the sanitary authority given in any notice under the Act, or to be contrary to the Act, or if any person, without the consent of the sanitary authority, constructs or rebuilds any closet, privy, ashpit or cesspool, which has been ordered by them either not to be made or to be demolished, or without lawful authority discontinues any water-supply, or destroys any sink, trap, siphon, pipe or other connected works or apparatus either without lawful authority, or so that the destruction creates a nuisance or is injurious or dangerous to health, he will be liable to a penalty not exceeding 10*l*., and if he does not within fourteen days after notice is served on him by the sanitary authority, or within such further time allowed by that authority, or appearing to a petty sessional court necessary for the execution of the works, cause the closet, privy, ashpit or cesspool to be altered or re-instated in conformity with the

[1] As to these bye-laws see p. 285.

[2] For the definition of 'ashpit' see note on p. 308.

bye-laws and directions, or, as the case may be, to be demolished, or the water-supply to be renewed, or the sink, trap, siphon, pipe or other connected works or apparatus to be restored, he will be liable to a fine not exceeding 20*s.* for every day during which the offence continues; or the sanitary authority, if they think fit, instead of proceeding for a fine may enter on the premises and cause the work to be done, and in such a case the expenses must be paid by the person who has so offended.

If on the examination any of the above works appears to be in bad order and condition, or to require cleansing, alteration, or amendment, or to be filled up, the sanitary authority should cause notice to be served on the owner or occupier of the premises upon or in respect of which the inspection was made, requiring him forthwith, or within a reasonable time specified in the notice, to do what is necessary to place the work in proper order and condition; and if such notice is not complied with, the owner or occupier will be liable to a fine not exceeding 5*l.* and to a further fine not exceeding 40*s.* for each day during which the offence continues; or the sanitary authority, if they think fit, in lieu of proceeding for a fine may enter on the premises and execute the works, and the expenses incurred by them in so doing must be paid to them by the owner or occupier of the premises.

Appeal to County Council.

Any person who thinks himself aggrieved by any notice or act of a sanitary authority under these provisions in relation to any water-closet, earth-closet, privy, ashpit, or cesspool, may appeal [1] to the County Council, whose decision will be final.

Improper construction or repair of water-closet or drain (Sec. 42).

If a water-closet or drain is so constructed or repaired as to be a nuisance or injurious or dangerous to health, the person who undertook or executed such construction or repair will, unless he shows that such construction or repair was not due to any wilful act, neglect, or default, be liable to a fine not exceeding 20*l.*

Where, however, a person is charged with an offence under this enactment, he will be entitled, upon information duly laid by him, to have any other person, being his agent, servant, or workman, whom he charges as the actual offender, brought before the court at the time appointed for hearing the charge, and if he proves to the satisfaction of the court that he had used due diligence to prevent the commission of the offence, and that the said other person committed the offence without his knowledge, consent, or connivance, he will be exempt from any fine, and the actual offender may be summarily convicted of the offence.

Provision of public conveniences by sanitary authority (Sec. 44).

Every sanitary authority in London may provide and maintain public lavatories and ashpits and public sanitary conveniences,[2] other than privies, in situations where they deem the same to be required, and may supply such lavatories and sanitary conveniences with water.

For the purpose of such provision the subsoil of any road, exclusive of the footway adjoining any building or the curtilage of a building, is vested in the sanitary authority.

Regulations as to public sanitary conveniences (Sec. 45).

Where a sanitary authority avails itself of this power, provisions similar to those in Section 20 [3] of the Public Health Acts Amendment Act, 1890, apply.

[1] See note 2 on p 308.

[2] The expression 'sanitary convenience' is defined by Section 141 as including urinals, water-closets, earth closets, privies, and any similar conveniences.

[3] The effect of this section will be found on p. 51.

The provisions in the Public Health (London) Act, 1891, with reference to sanitary conveniences used in common by the occupiers of two or more separate dwelling-houses are identical with those in Section 21 [1] of the Public Health Acts Amendment Act, 1890.

Sanitary conveniences used in common (Sec. 46).

(*d*) Scavenging and Cleansing

It is the duty of every sanitary authority in London to keep the streets of their district, which are repairable by the inhabitants at large, including the footways, properly swept and cleansed, so far as is reasonably practicable, and to collect and remove from such streets, so far as is reasonably practicable, all street-refuse.[2] If these requirements are not complied with, the sanitary authority will be liable to a penalty not exceeding 20*l.*

Duty of sanitary authority to clean streets repairable by inhabitants at large (Sec. 29).

It is also the duty of every such sanitary authority (*a*) to secure the due removal at proper periods of house-refuse [3] from premises, and the due cleansing out and emptying at proper periods of ashpits, and of earth closets, privies and cesspools (if any) in their district, and the giving of sufficient notice of the times appointed for such removal, cleansing out, and emptying, and (*b*) where the house-refuse is not removed from any premises in the district at the ordinary period, or any ashpit, earth closet, privy or cesspool in or under any building in the district is not cleansed out or emptied at the ordinary period, and the occupier of the premises serves on the authority a written notice requiring the removal of such refuse, or the cleansing out and emptying of the ashpit, earth closet, privy, or cesspool, as the case may be, to comply with such notice within forty-eight hours after that service, exclusive of Sundays and public holidays.

To remove house-refuse (Sec. 30).

If a sanitary authority fail without reasonable cause to comply with these requirements, they will be liable to a fine not exceeding 20*l.*

If any person in the employ of the sanitary authority, or of any contractor with the sanitary authority, demands from an occupier or his servant any fee or gratuity for removing any house-refuse from any premises, he will be liable to a fine not exceeding 20*s.*

Every sanitary authority in London must employ a sufficient number of scavengers, or contract with any scavengers, whether a company or individuals, for the execution of the duties of the authority, under the Public Health (London) Act, 1890, with respect to the sweeping and cleansing of the several streets within their district, and the collection and removal of street-refuse and house-refuse, and the cleansing out and emptying of ashpits, earth closets, privies, and cesspools.

Employment of scavengers (Sec. 31).

If the sanitary authority are required by the owner or occupier of any premises to remove any trade-refuse,[4] they must do so, and the sum to be paid by such owner or occupier for the removal, in case of dispute, will be settled by a petty sessional court.

Removal of trade refuse (Sec. 33).

Where it appears to a sanitary inspector that any accumulation of any obnoxious matter, whether manure, dung, soil, filth, or other

Removal of obnoxious matter on

[1] See p. 51.

[2] 'Street-refuse' is defined by Section 141 as meaning dust, dirt, rubbish, mud, road scrapings, ice, snow, and filth.

[3] 'House-refuse' means ashes, cinders, breeze, rubbish, night soil and filth, but does not include trade-refuse (Section 141).

[4] 'Trade-refuse' means the refuse of any trade, manufacture, or business, or of any building materials.

requisition of sanitary inspector (Sec. 35).

matter, ought to be removed, and it is not the duty of the sanitary authority to remove the same, he is required by Section 35 of the Public Health (London) Act, 1890, to serve notice on the owner thereof, or on the occupier of the premises on which it exists, requiring him to remove the same; and if the notice is not complied with within forty-eight hours from the service thereof, exclusive of Sundays and public holidays, the obnoxious matter will become the property of the sanitary authority, and must be removed and disposed of by them, the proceeds (if any) of such disposal being applied in payment of the expenses incurred with reference to the matter removed, and the surplus (if any) being paid on demand to the former owner of the matter.

Removal of refuse from stables, cow-houses, &c. (Sec. 36).

The sanitary authority, if they think fit, may employ a sufficient number of scavengers, or contract with any scavengers, whether a company or individuals, for collecting and removing the manure and other refuse matter from any stables and cow-houses within their district the occupiers of which signify their consent in writing to such removal. Such consent may not be withdrawn or revoked without one month's previous notice to the sanitary authority, and no person will by this enactment be relieved from any fine to which he may be subject for placing dung or manure upon any footways or carriage-ways, or for having any accumulation or deposit of manure or other refuse matter so as to be a nuisance or injurious or dangerous to health.

Notice may be given by a sanitary authority (by public announcement in the district or otherwise) requiring the periodical removal of manure or other refuse matter from stables, cow-houses, or other premises; and, where any such notice has been given, if any person to whom the manure or other refuse matter belongs fails to comply with the notice, he will be liable without further notice to a fine not exceeding 20*s.* for each day during which such non-compliance continues.

(*e*) Nuisances

Powers and duties of sanitary authorities with respect to nuisances (Sec. 1).

In their capacity of sanitary authority under the Public Health (London) Act, 1891, it is the duty of every metropolitan vestry and district board to cause to be made from time to time inspection of their district, with a view to ascertain what nuisances exist calling for abatement under the powers of that Act, and to enforce the provisions of the Act for the purpose of abating the same. These provisions in the main correspond with those [1] relating to nuisances contained in the Public Health Act, 1875; but they embody several amendments and extensions of the law which have very materially strengthened the hands of sanitary authorities in London in dealing with nuisances.

Extension of definition of 'nuisance' (Sec. 2).

In the first place, the definition of nuisance includes not merely nuisances injurious to health, but also nuisances dangerous to health. The definition is also enlarged in some other respects, e.g. it includes any cistern, water-closet, earth closet, or dung-pit, so foul or in such a state as to be a nuisance or injurious or dangerous to health, and any such absence from premises of water-fittings as is a nuisance by virtue of Section 3 of the Metropolis Water Act, 1871. The section containing the definition also provides that in considering whether a dwelling-house, or part of a dwelling-house which is used also as a factory, workshop, or workplace, or whether a factory, workshop, or workplace

[1] These sections will be found on pp. 61 to 68.

used as a dwelling-house, is a nuisance by reason of overcrowding, the court before whom proceedings are taken in respect of the alleged nuisance shall have regard to the circumstances of such other user.

Further amendments of the law relating to nuisances.

The most important of the other amendments above referred to are the following:—

Information as to nuisance (Sec. 3).

Information of a nuisance may be given to the sanitary authority by any person: it is made the duty of every officer of the sanitary authority, and of every relieving officer (subject to regulations which it is the duty of the authority having control over him to make), to give such information; and the sanitary authority are to give such directions to their officers as will secure the existence of the nuisance being immediately brought to the notice of any person who may be required to abate it. This the officer is to do by serving a written intimation.

Notice requiring abatement of nuisance (Sec. 4 (1) (2)).

A notice requiring the abatement of a nuisance is, if the sanitary authority think it desirable (but not otherwise), to specify the works to be executed. As will be seen on reference to note 3 on page 63, the corresponding provision in the Public Health Act, 1875, requires the works to be specified, a requirement which is sometimes attended with considerable trouble and inconvenience.

The sanitary authority may, by the same notice as that requiring the abatement of a nuisance, or by separate notice, require the person causing the nuisance, or the occupier or owner of the premises (as the case may be), to do what is necessary to prevent its recurrence, and, if they think it desirable, they may specify any works to be executed for this purpose. They may serve the notice, notwithstanding that the nuisance may for the time being have been abated, if they consider that it is likely to recur on the same premises.

Power of sanitary authority to execute works to prevent recurrence of nuisance (Sec. 4 (3) (*b*)).

Where the person causing the nuisance cannot be found, and it is clear that the nuisance does not arise or continue by the act, default, or sufferance of the occupier or owner of the premises, the sanitary authority may not only themselves abate the nuisance, but may also do what is necessary to prevent its recurrence.

Duty of sanitary authority in cases of overcrowding (Sec. 4 (3) (*c*)).

In every case in which the medical officer of health certifies that any house or part of a house is so overcrowded as to be injurious or dangerous to the health of the inmates, whether or not members of the same family, the sanitary authority must take proceedings for the abatement of the nuisance.

Penalty for nuisance or non-abatement of nuisance (Sec. 4 (4)).

Where a notice has been served on a person requiring him to abate or prevent the recurrence of a nuisance, and either the nuisance arose from the person's wilful act or default, or he makes default in complying with the requisitions of the notice within the time specified, he will be liable to a fine of 10*l.* for each offence, whether an order to abate the nuisance or prohibiting its recurrence is made on him or not.

Order of court (Sec. 5 (5)).

The order of the court requiring the abatement of a nuisance or prohibiting its recurrence need not specify the works to be done, unless the person on whom the order is made so requires or the court considers it desirable.

Increase of penalties (Sec. 5 (9)).

The maximum fines for failing to comply with an order for the abatement of a nuisance, or for acting contrary to an order for the prohibition of a nuisance, are increased from the amounts fixed by the Public Health Act, 1875, to 20*s.* a day, and 40*s.* a day respectively during default or contrary action, as the case may be. And a person who knowingly and wilfully acts contrary to a closing order is made liable to a fine not exceeding 40*s.* a day.

Wilful damage of drains, water-closets, &c. (Sec. 15).

A fine not exceeding 5*l.* is also imposed on any person who, by wilfully damaging or interfering with it, causes any drain, water-closet, earth closet, privy, or ashpit [1] to be a nuisance or injurious or dangerous to health.

Appeals to Quarter Sessions (Sec. 6 (3) (4)).

Groundless appeals to Quarter Sessions against nuisance orders are checked by—

(1) Allowing the imposition of a daily fine of 20*s.* for non-compliance with the order during the pendency of the appeal, in the event of the appeal being dismissed or abandoned, unless the court before whom proceedings are taken for imposing a fine are satisfied that there were substantial grounds for the appeal, and that the appeal was not brought merely for the purpose of delay.

(2) Enabling the court to authorise the sanitary authority to abate the nuisance immediately, subject to the payment by them of the cost of the abatement, and of damages, in the event of the appeal being successful, and to the power of recovering the cost of the abatement from the appellant if the appeal is abandoned or is unsuccessful.

Bye-laws for prevention of nuisances (Sec. 16).

The sanitary authority, moreover, are required by Section 16 of this Act to make bye-laws [2]—

(*a*) For the prevention of nuisances arising from any snow, ice, salt, dust, ashes, rubbish, offal, carrion, fish, or filth, or other matter or thing in any street;

(*b*) For preventing nuisances arising from any offensive matter running out of any manufactory, brewery, slaughter-house, knackers' yard, butcher's or fishmonger's shop, or dunghill, into any uncovered place, whether or not surrounded by a wall or fence;

(*c*) For the prevention of the keeping of animals on any premises in such place or manner as to be a nuisance or injurious or dangerous to health; and

(*d*) As to the paving of yards and open spaces in connection with dwelling-houses.

Duty of sanitary authority to enforce bye-laws made by County Council (Sec. 16).

Under the same section, as has already been seen (page 285), the London County Council have power to make certain bye-laws. It is the duty of every sanitary authority to enforce them.

(*f*) Housing of the Poor

Closing of houses unfit for human habitation and abatement of overcrowding.

As the sanitary authorities under the Public Health (London) Act, 1891, the metropolitan vestries and district boards have similar powers and duties with respect to the taking of summary proceedings for the closing of houses unfit for human habitation, and for abating overcrowding, to those [3] which sanitary authorities have under the Public Health Act, 1875.

Occupation of underground rooms as dwellings (Sec. 96).

The provisions of the Public Health (London) Act, 1891, with respect to the occupation of underground rooms as dwellings differ so materially from those in the Public Health Act, 1875, relating to cellar [4]

[1] 'Ashpit' means any ash-pit, dust-bin, ash-tub, or other receptacle for the deposit of ashes or refuse matter (Section 141).

[2] These bye-laws were required to be submitted to the Local Government Board within six months from January 1, 1892. They are subject to the provisions of the Public Health Act, 1875, with respect to bye-laws, as to which see note 2, p. 33. The Local Government Board have framed a series of model bye-laws under the section.

[3] As to these powers, see pp. 61, 62, and 64. As to the amendments of the provisions of the Public Health Act, 1875, as regards these matters, which have been made by the Public Health (London) Act, 1891, see pp. 312 and 313.

[4] See pp. 69 to 71.

dwellings that it will be convenient to set them out in detail. So far as they are more stringent, the requirements of the later Act are in the main in accordance with the recommendations of the Royal Commission on the Housing of the Working Classes. They provide that any underground room which was not let or occupied separately as a dwelling before August 5, 1891, shall not be so let or occupied, unless it possesses the following requisites, viz. :—

(*a*) Unless it is in every part at least seven feet high measured from the floor to the ceiling, and has at least three feet of its height above the surface of the street or ground adjoining or nearest to it: Provided that if the width of the area hereinafter mentioned is not less than the height of the room from the floor to the surface of the street or ground, the height of the room above such surface may be less than three feet, but it must not in any case be less than one foot, and the width of the area need not in any case be more than six feet;

(*b*) Unless every wall of the room is constructed with a proper damp-course, and, if in contact with the soil, is effectually secured against dampness from that soil;

(*c*) Unless there is, outside of and adjoining the room and extending along the entire frontage thereof and upwards from six inches below the level of the floor, an open area, properly paved, at least four feet wide in every part: Provided that in the area there may be placed steps necessary for access to the room, and over and across such area there may be steps necessary for access to any building above the underground room, if the steps in each case be so placed as not to be over or across any external window;

(*d*) Unless the area and the soil immediately below the room are effectually drained;

(*e*) Unless, if the room has a hollow floor, the space beneath it is sufficiently ventilated to the outer air;

(*f*) Unless any drain passing under the room is properly constructed of a gas-tight pipe;

(*g*) Unless the room is effectually secured against the rising of any effluvia or exhalation;

(*h*) Unless there is appurtenant to the room the use of a water-closet and a proper and sufficient ash-pit;

(*i*) Unless the room is effectually ventilated;

(*j*) Unless it has a fire-place with a proper chimney or flue;

(*k*) Unless it has one or more windows opening directly into the external air with a total area clear of the sash-frames equal to at least one-tenth of the floor-area of the room, and so constructed that one-half at least of each window of the room can be opened, and the opening in each case extends to the top of the window.

If any person lets or occupies, or continues to let, or knowingly suffers to be occupied, any underground room contrary to this enactment, he will be liable to a fine not exceeding 20*s.* for every day during which the room continues to be so let or occupied.

Since July 30, 1892, the foregoing provisions have extended to underground rooms let or occupied separately as dwellings before the passing of the Act, except that the sanitary authority, either by general regulations providing for classes of underground rooms, or on the application of the owner of a room in any particular case, may dispense with or modify any of the above requisites which involve the structural alteration of the building, if they are of opinion that they can

safely do so, having due regard to the fitness of the room for human habitation, to the house accommodation in the district, and to the sanitary condition of the inhabitants, and to other circumstances; but any requisite which was imposed before the passing of the Act may not be so dispensed with or modified.

These dispensations and modifications may be allowed either absolutely or for a limited time, and may be revoked or varied by the sanitary authority, and must be recorded, together with the reasons for them, in the minutes of the sanitary authority.

If the owner of any room feels aggrieved by a dispensation or modification not being allowed as regards that room, he may appeal to the Local Government Board, and that Board may refuse the dispensation or modification, or allow it wholly or partly, as if they were the sanitary authority. Such allowance may be revoked or varied by the Board, but not by the sanitary authority.

Where two or more underground rooms are occupied together, and are not occupied in conjunction with any other room or rooms on any other floor of the same house, each of them will be deemed to be separately occupied as a dwelling within the meaning of this section.

Every underground room in which a person passes the night will be deemed to be occupied as a dwelling within the meaning of the section; and evidence giving rise to a probable presumption that some person passes the night in an underground room will be evidence, until the contrary is proved, that such has been the case.

Where it is shown that any person uses an underground room as a sleeping-place, it will in any proceeding under the section lie on the defendant to show that the room is not separately occupied as a dwelling.

For the purpose of the section the expression 'underground room' includes any room of a house the surface of the floor of which is more than three feet below the surface of the footway of the adjoining street, or of the ground adjoining or nearest to the room.

Enforcement of provisions as to underground rooms (Sec. 97).

Any officer of a sanitary authority appointed or determined by the authority for the purpose must, without fee or reward, report to the sanitary authority, at such times and in such manner as the sanitary authority may order, all cases in which underground rooms are occupied contrary to the Act in the district of such authority.

Any such officer or any other person having reasonable grounds for believing that any underground room is occupied in contravention of the Act may enter and inspect the same at any hour by day; and if admission is refused to any person other than an officer of the sanitary authority, the like warrant may be granted by a justice under the Act as in case of refusal to admit any such officer.

A warrant of a justice authorising an entry into an underground room may authorise the entry between any hours specified in the warrant.

Closure of underground rooms after two convictions (Sec. 98).

Where two convictions for an offence relating to the occupation of an underground room as a dwelling have taken place within a period of three months (whether the persons convicted were or were not the same), a petty sessional court may direct the closing of the underground room for such period as the court may deem necessary, or may empower the sanitary authority of the district permanently to close the same, in such manner as they think fit, at their own cost.

Common lodging-

As has been seen,[1] the inspection, regulation and registration of

[1] See pp. 71 to 75.

common lodging-houses in the provinces devolve on the sanitary authority. This, however, is not the case in the metropolis. The local authority for the purposes of the Common Lodging-houses Acts, 1851 and 1853, which Acts were repealed and incorporated with amendments in the Public Health Act, except so far as so much of the metropolis as is not situate in the metropolitan police district is concerned, are the Commissioners [1] of the Metropolitan Police.

houses not under jurisdiction of vestries or district boards.

The regulation of lodgings other than common lodgings is, however, a matter within the jurisdiction of the metropolitan vestries and district boards, for Section 94 of the Public Health (London) Act, 1891, requires every sanitary authority under that Act to make and enforce bye-laws for the several purposes for which sanitary authorities may make bye-laws under Section 90 [2] of the Public Health Act, 1875.

Lodging-houses other than common lodging-houses (Sec. 94).

The vestries and district boards are also local authorities for the purposes of Part II. of the Housing of the Working Classes Act, 1890, and have the same [3] powers and duties as devolve on sanitary authorities in the provinces under that part of the Act with reference to unhealthy dwelling-houses and obstructive buildings. As has [4] already been shown, they are placed in the execution of these duties under the supervision and control of the London County Council in the same manner as rural sanitary authorities are placed under provincial County Councils; and special provisions are contained in the Act for the purpose of determining questions of difference that may arise between them and the County Council as to their respective duties under Parts I. and II. of the Act, and also for the purpose of enabling the Council to contribute towards the expenses of their schemes for reconstruction.

Housing of the Working Classes Act, 1890 (Part II.).

The vestries and district boards are also the local authorities for the purposes of the Canal Boats Acts,[5] 1877 and 1884, so far as the parishes and districts under their jurisdiction are not within the jurisdiction of the port sanitary authority for the Port of London. It is therefore their duty to enforce the provisions of these Acts, and the regulations of the Local Government Board thereunder, in the same manner as it is the duty of sanitary authorities to enforce them: see the definition of sanitary authority contained in Section 14 of the Canal Boats Act, 1877.

Duty of vestries and district boards to enforce provision of Canal Boats Acts, 1877 and 1884.

Canal Boats Act, 1877 (Sec. 14).

Vestries and district boards have also, under Section 95 of the Public Health (London) Act, 1891, similar powers and duties to those of sanitary authorities under Section 9 [6] of the Housing of the Working Classes Act, 1885, in relation to tents, vans, sheds, or other similar structures used for human habitation and not erected or used by any portion of Her Majesty's military or naval forces, subject to this modification—that the provisions of the Act [7] of 1891 relating to nuisances are for this purpose substituted for those of the Public Health Act, 1875. These powers enable vestries and district boards to deal with movable dwellings, other than canal boats, which are in such a state as to be a nuisance, and which are so overcrowded as to be injurious or dangerous to the health of the inmates, and to make bye-laws enforceable by

Tents and vans used for human habitation (Public Health (London) Act, 1891, Sec. 95).

[1] See, however, note 3 on p. 329.

[2] As regards these powers and the model bye-laws which have been issued by the Local Government Board for the guidance of the local authorities who may desire to exercise them, see pp. 77 to 80.

[3] See pp. 89 to 96.

[4] See p. 286.

[5] The provisions of these Acts and of the regulations which have been made under them will be found at pp. 98 to 105.

[6] See p. 106.

[7] See pp. 312 to 314.

penalties for promoting cleanliness in them, and their habitable condition, and for preventing the spread of infectious diseases by the persons inhabiting them.

(*g*) Offensive Trades

Duty of sanitary authority to complain to justice of nuisance arising from offensive trade (Sec. 21).

Section 21 of the Public Health (London) Act, 1891, makes it the duty of every metropolitan vestry and district board, in connection with any other sanitary authority in London, to make a complaint to a petty sessional court where any manufactory, building, or premises used for any trade, business, process, or manufacture, causing effluvia, are certified to them by their medical officer of health, or by any two legally qualified medical practitioners, or by any ten inhabitants of the district, to be a nuisance or injurious or dangerous to health; and if it appears to the petty sessional court hearing the complaint that the trade, business, process, or manufacture carried on by the person complained of is a nuisance, or causes any effluvia which is a nuisance or injurious or dangerous to the health of any of the inhabitants of the district, then, unless it is shown that such person has used the best practicable means for abating the nuisance, or preventing or counteracting the effluvia, the person so offending (being the owner or occupier of the premises, or being a foreman or other person employed by such owner or occupier) will be liable to a fine not exceeding 50*l*.

The court may, however, suspend its final determination on condition that the person complained of undertakes to adopt, within a reasonable time, such means as the court may deem practicable and order to be carried into effect for abating the nuisance or mitigating or preventing the injurious effects of the effluvia.

The sanitary authority may, if they think fit, on such certificate as is in this section mentioned, cause to be taken any proceedings in the High Court against any person in respect of the matters alleged in the certificate. They may also take proceedings under the section in respect of a manufactory, building, or premises situate without their district, so, however, that the summary proceedings shall be had before a court having jurisdiction in the district where the manufactory, building, or premises are situate.

(*h*) Smoke Consumption

Duty of sanitary authority as regards suppression of smoke nuisances.

In London the duty of enforcing the law relating to the consumption of smoke has now to be performed by the sanitary authorities, including the metropolitan vestries and district boards. The law relating to this matter differs from that in force in the rest of the country.[1] Section 23 of the Public Health (London) Act, 1891, provides that every furnace employed in the working of engines by steam, and every furnace employed in any public bath or wash-house, or in any mill, factory, printing-house, dyehouse, ironfoundry, glass-house, distillery. brewhouse, sugar-refinery, bakehouse, gasworks, waterworks, or other building used for the purpose of trade or manufacture (although a steam-engine be not used or employed therein) shall be constructed so as to consume[2] and burn the smoke arising from such furnace.

Furnaces and steam-vessels to consume their own smoke (Sec. 23).

[1] As to this law in the rest of the country, see p. 62.

[2] As to the meaning of these words, see the following page.

Penalty.

If any person, being the owner or occupier of the premises, or being a foreman or other person employed by the owner or occupier uses any such furnace which is not constructed so as to consume or burn the smoke arising therefrom, or so negligently uses any such furnace as that the smoke therefrom is not effectually consumed or burnt, *or carries*[1] *on any trade or business which occasions any noxious or offensive effluvia or otherwise annoys the neighbourhood or inhabitants*, without using the best practicable means for preventing or counteracting such effluvia or other annoyance, he will be liable to a fine not exceeding 5*l.* and on a second conviction to a fine of 10*l.* and on each subsequent conviction to a fine double the amount of the fine imposed on the last preceding conviction.

Steam-vessels on the Thames.

Every steam-engine and furnace used in the working of any steam-vessel on the River Thames, either above London Bridge or plying to and fro between London Bridge and any place on the River Thames westward of the Nore light, must be constructed so as to consume or burn the smoke arising therefrom, and if it is not so constructed, or being so constructed is wilfully or negligently used so that the smoke arising therefrom is not effectually consumed or burnt, the owner or master of such vessel will be liable to a fine not exceeding 5*l.* and on a second conviction to a fine of 10*l.* and on every subsequent conviction to a fine of double the amount of the fine imposed on the last preceding conviction.

Meaning of words 'consume or burn the smoke.'

In this section the words 'consume or burn the smoke' are not to be held in all cases to mean 'consume or burn all the smoke,' and the court hearing an information against a person may remit the fine if of opinion that such person has so constructed his furnace as to consume or burn, as far as possible, all the smoke arising from such furnace, and has carefully attended to the same, and consumed or burned, as far as possible, the smoke arising from such furnace.

Duty of sanitary authority to enforce the section.

It is the duty of every sanitary authority to enforce the provisions of this section, and an information may not be laid for the recovery of any fine under it except under the direction of a sanitary authority.

In Port of London section to be enforced by port sanitary[2] authority.

The section extends to the Port of London, and, as respects the port, must be enforced by the port sanitary authority.

Summary proceedings for abatement of nuisances caused by smoke (Sec. 24).

Section 24 of the same Act provides that any fireplace or furnace which does not, as far as practicable, consume the smoke arising from the combustible used therein, and which is used for working engines by steam, or in any mill, factory, dyehouse, brewery, bakehouse, or gasworks, or in any manufacturing or trade process whatsoever, and any chimney (not being the chimney of a private dwelling-house) sending forth black smoke in such quantity as to be a nuisance, shall be nuisances liable to be dealt with summarily under the Act, and that the provisions of the Act relating to those nuisances shall apply accordingly; but the court hearing a complaint against a person in respect of a nuisance arising from a fireplace or furnace which does not consume the smoke arising from the combustible used therein must hold that no nuisance is created, and dismiss the complaint, if satisfied that the fireplace or furnace is constructed in such manner as to consume as far as practicable, having regard to the nature of the

[1] These words occur somewhat strangely in the section, as they are by no means restricted to smoke nuisances, but apparently extend to any offensive businesses.

[2] The Corporation are the port sanitary authority for London, see p. 220.

manufacture or trade, all smoke arising therefrom, and that it has been carefully attended to by the person having the charge thereof.

(*i*) Workshops and Bakehouses

Limewashing and washing of workshops (Sec. 25).

The Public Health (London) Act, 1891, makes it the duty of every sanitary authority in London to give notice to the owner or occupier of any workshop other than a bakehouse to limewash, cleanse, or purify the same, if, on the certificate of a medical officer of health or sanitary inspector, it appears to them that this is necessary for the health of the persons employed in the workshop. On the failure of the person on whom the notice is served to comply with it, he will be liable to a fine not exceeding 5*l.*, and to a further fine not exceeding 10*s.* for every day during which he makes default after conviction. Moreover, the sanitary authority may do the work themselves at the expense of the owner or occupier, as the case may be. The same power is given with respect to factories which are not within the provisions of the Factory and Workshop Act, 1878, and the Acts amending that Act, and to workplaces.

Retail bakehouses (Sec. 26).

The Act also makes it the duty of every sanitary authority in London to enforce Sections 34, 35, and 81 of the Factory and Workshop Act, 1878,[1] and Sections 15 and 16 of the Factory and Workshop Act, 1883,[1] as respects bakehouses which are workshops within the meaning of those Acts, and they are made the local authority within the meaning of those sections; and for the purpose of enforcing these provisions their medical officers of health have all the exceptional[2] powers and duties which these officers have in urban and rural sanitary districts.

Notice to factory inspector respecting children or women in workshops (Sec. 26).

The medical officer of the sanitary authority, on becoming aware of the employment in a workshop of any child, young person, or woman, must give notice of the fact to the factory inspector of the district.

(*j*) Unsound Food

Inspection and destruction of unsound food (Sec. 47).

The provisions of the Public Health (London) Act, 1891, relating to the inspection and destruction of unsound food, though based on the provisions relating to this subject which are in force in the rest of the country, contain such important amendments of those provisions that it will be well to set them out *in extenso*. They are contained in Section 47 of the Act, which authorises any medical officer of health or sanitary inspector at all reasonable times to enter any premises and inspect and examine any animal intended for the food of man which is exposed for sale, or deposited in any place for the purpose of sale or of preparation for sale, and any article, whether solid or liquid, intended for the food of man, and sold or exposed for sale, or deposited in any place for the purpose of sale or of preparation for sale, the proof that the same was not exposed or deposited for any such purpose, or was not intended for the food of man, resting with the person charged; and if any such animal or article appears to the officer or inspector to be

[1] As to these sections see pp. 124 and 125. They relate to the limewashing, painting, and cleansing of the interior of bakehouses, the restriction of the use of certain parts of buildings containing such bakehouses as sleeping-places, and the prohibition of the occupation of such bakehouses unless certain sanitary conditions are complied with.

[2] See pp. 122 and 123.

diseased, or unsound, or unwholesome, or unfit for the food of man, he may seize and carry away the same himself or by an assistant, in order to have the same dealt with by a justice.

If it appears to a justice that any animal or article which has been seized or is liable to be seized under this section is diseased or unsound, or unwholesome, or unfit for the food of man, he must condemn the same, and order it to be destroyed or so disposed of as to prevent it from being exposed for sale or used for the food of man; and the person to whom the same belongs or did belong at the time of sale or exposure for sale, or deposit for the purpose of sale or of preparation for sale, or in whose possession or on whose premises the same was found, will be liable on summary conviction to a fine not exceeding 50*l.* for every animal or article, or if the article consists of fruit, vegetables, corn, bread, or flour, for every parcel thereof so condemned, or, at the discretion of the court, without the infliction of a fine, to imprisonment for a term of not more than six months with or without hard labour.

Fine or imprisonment.

Where it is shown that any article liable to be seized under this section, and found in the possession of any person was purchased by him from another person for the food of man, and when so purchased was in such a condition as to be liable to be seized and condemned under this section, the person who so sold the same will be liable to the fine and imprisonment above mentioned, unless he proves that at the time he sold the said article he did not know, and had no reason to believe, that it was in such condition.

Liability of previous vendor.

Where a person convicted of an offence under this section has been within twelve months previously convicted of an offence under this section, the court may, if it thinks fit, and finds that he knowingly and wilfully committed both such offences, order that a notice of the facts be affixed, in such form and manner and for such period, not exceeding twenty-one days, as the court may order, to any premises occupied by that person, and that the person do pay the costs of such affixing; and if any person obstructs the affixing of such notice, or removes, defaces, or conceals the notice while affixed during the said period, he will for each offence be liable to a fine not exceeding 5*l.*

Notice of facts to be affixed to premises.

If the occupier of a licensed slaughter-house is convicted of an offence under this section, the court convicting him may cancel the licence for such slaughter-house.

Cancellation of licence of slaughter-house.

If any person obstructs an officer in the performance of his duty under any warrant for entry into any premises granted by a justice for the purposes of this section, he will, if the court is satisfied that he obstructed with intent to prevent the discovery of an offence against this section, or has within twelve months previously been convicted of such obstruction, be liable to imprisonment for any term not exceeding one month in lieu of any fine authorised by the Act for such obstruction.

Obstruction of officers

A justice may act in adjudicating on an offender under this section, whether he has or has not acted in ordering the animal or article to be destroyed or disposed of.

Where a person has in his possession any article which is unsound or unwholesome or unfit for the food of man, he may, by written notice to the sanitary authority, specifying the article and containing a sufficient identification of it, request its removal; and the sanitary authority must cause it to be removed, as if it were trade refuse.

Power to require sanitary authority to remove unsound food.

(*k*) Adulteration

Vestries and district boards the local authorities for the purposes of the Sale of Food and Drugs Acts, the Margarine Act, and the Sale of Horseflesh Regulation Act.

As has already been mentioned,[1] the vestries and district boards are required to appoint analysts for the purposes of the Sale of Food and Drugs Acts, and they are in their parishes and districts the local authorities for the purposes of those Acts. In this capacity it is their duty, and they have full power, to take the necessary proceedings for obtaining convictions against persons who sell adulterated food or drugs within the areas subject to their jurisdiction. They are also the authorities for enforcing the provisions of the Margarine Act, 1887,[2] and the Sale of Horseflesh Regulation Act, 1889.[2]

(*l*) Pleasure Grounds and Open Spaces

Powers of vestries and district boards under Gardens in Towns Protection Act, 1863; Metropolitan Open Spaces Acts, 1877 and 1881; and Open Spaces Act, 1887.

Reference has already been made[3] incidentally to the duties of vestries and district boards in cases where, under the Gardens in Towns Protection Act, 1863, enclosed gardens or ornamental grounds have been vested in them by the County Council or their predecessors, and also to some of the powers which they possess under the Metropolitan Open Spaces Acts, 1877 and 1881, as amended by the Open Spaces Act, 1887. In addition to these powers, Section 6 of the last-mentioned Act expressly provides that all powers, and duties conferred upon the Metropolitan Board of Works (now the County Council) by the Metropolitan Open Spaces Act, 1877, may be exercised and performed by any vestry or district board. Vestries and district boards have therefore very considerable powers in relation to pleasure grounds and open spaces under these Acts. By an earlier provision, contained in Section 239 of the Metropolis Management Act, 1855, vestries and district boards are required in certain cases to cause to be raised the expenses of the maintenance and management of these places by an addition to the general rate, to be assessed on the occupiers of the houses or buildings liable to be assessed for these purposes, where such management and maintenance is vested in a committee of the inhabitants of the square, crescent, circus, street, or place surrounding or adjoining the garden or ground.

Power in certain cases to rate inhabitants of squares, &c., for maintaining gardens (Metropolis Management Act, 1855, Sec. 239).

(*m*) Infectious Diseases and Hospitals

Powers of sanitary authorities as regards infectious diseases and hospitals.

The vestries and district boards and other sanitary authorities in London have under the Public Health (London) Act, 1891, very similar powers and duties to those of sanitary authorities in the rest of the country under the Public Health Act, 1875, the Infectious Disease (Notification) Act, 1889, and the Infectious Disease (Prevention) Act, 1890, in cases where the latter Acts have been adopted. So far as the provision of hospitals is concerned, these powers have, however, rarely been exercised in London, the provision of hospitals at the cost of the rates having for the most part been left to the Metropolitan Asylums Board.

As the powers and duties of urban and rural sanitary authorities in relation to the above matters have already been so fully described,[4] all that will be necessary here to set out will be the provisions of

[1] See p. 134.
[2] As to these Acts, see pp. 132, 133, 142 and 143.
[3] See p. 295.
[4] See pp. 158 to 179.

the Public Health (London) Act, 1891, which differ from the general law in force outside London.

Notification of infectious disease (Sec. 55).

Commencing with the notification provisions, Section 55 of the Act requires every medical officer of health who receives a certificate of notification under them relating to a patient within the Metropolitan Asylum district, within twelve hours after such receipt, to send a copy thereof to the Metropolitan Asylum Managers, and to the head teacher of the school attended by the patient (if a child), or by any child who is an inmate of the same house as the patient. The managers are to repay to the sanitary authority the fees paid by that authority in respect of the certificates of which copies are so sent to the managers, and are also required to send weekly to the County Council, and to every medical officer of health, such return of the infectious diseases of which they receive certificates as the County Council require.

Section 3 [1] of the Infectious Disease (Notification) Act, 1889, which provides for the notification to the medical officer of health of the occurrence of infectious disease amongst the inmates of any house, exempts from the operation of the section cases in which the house is a hospital in which persons suffering from an infectious disease are received. This exemption does not apply to the metropolis. A notice or certificate, however, need not be sent respecting any inmate of a hospital of the Metropolitan Asylum Managers with respect to whom a copy of a certificate has been previously forwarded by the medical officer of health of the district to the managers under the above provisions.

The full name and address, and the age and sex of the patient are to be stated, amongst other particulars, in the certificate of notification sent by the medical attendant to the medical officer of health, and the certificate must state whether the case occurs in the private practice of the medical man or in his practice as a medical officer of any public body or institution. Where the certificate refers to an inmate of a hospital, it must specify the place from which, and the date at which, the inmate was brought to the hospital, and it must be sent to the medical officer of health of the district in which this place is situate.

Power of County Council to extend provisions of Act as to notification.

The power of the County Council to extend the provisions of the Act as to the notification of infectious disease to diseases not specifically mentioned in the Act has already been explained [2] in connection with the powers and duties of the County Council.

Definition of 'dangerous infectious disease' (Sec. 58).

Several of the provisions [3] of the Public Health Act, 1875, relate to 'dangerous infectious diseases,' but do not define what these diseases are. The Public Health (London) Act re-enacts these provisions except in so far as they are superseded by the re-enacted sections of the Infectious Disease (Prevention) Act, 1890, and it makes them apply to the following diseases—namely, small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names: typhus, typhoid, enteric, relapsing, continued, or puerperal. It also enables all or any of the provisions of the Act relating to dangerous infectious diseases to be extended by an order of the sanitary authority or the County Council, approved by the Local Government Board, to diseases other than those enumerated above.

[1] See p. 176. [2] See p. 299.

[3] See, e.g., Sections 120, 121, 126 to 129 of the Public Health Act, 1875, pp. 158 to 162.

Duty of sanitary authority to provide disinfecting apparatus, &c. (Sec. 59).

Section 59 of the Act makes it the duty of every sanitary authority, either alone or by combining or contracting with another sanitary authority, to provide proper premises with apparatus and attendance for the destruction or disinfection of bedding, clothing, and other articles, and to provide carriages or vessels for carrying them to and fro. It requires the sanitary authority to cause any such articles brought for destruction or disinfection, whether alleged to be infected by any dangerous infectious disease or by any other disease, to be destroyed or to be disinfected and returned, and it empowers them to convey and to destroy or disinfect and return such articles free of charge.

Power to borrow for this purpose (Sec. 105).

Every sanitary authority may, with the consent of the Local Government Board, borrow for the purpose of providing premises, apparatus, carriages, and vessels for the disinfection, destruction, and removal of infected articles.

Cost of disinfection not to be recovered.

Where the sanitary authority require a house to be disinfected, and do the work themselves, they cannot recover the cost.

Power to require destruction of infected articles (Secs. 60 and 61).

They are, however, empowered not only to require a house, or part of a house, or articles to be cleansed and disinfected, but also to require the destruction of articles for the prevention of the spread of disease. They must, however, give compensation for any articles thus destroyed, and if in the process of disinfecting the premises or any article contained therein any unnecessary damage is done, they must make good the damage.

Infectious rubbish (Sec. 62).

Section 62 of the Act makes it the duty of the sanitary authority, when requested so to do by the occupier of any house, or part of a house, in which there is a case of any infectious disease, to remove and disinfect or destroy any infectious rubbish.

Power to remove patient to hospital within convenient distance from London (Sec. 66).

Under Section 66 of the Act a person suffering from a dangerous infectious disease, who is without proper lodging or accommodation, or is lodged in a tent or van, or is on board a vessel, may, on a certificate of a legally qualified medical practitioner and with the consent of the superintending body of the hospital to which he is to be removed, be removed by an order of a justice, and at the cost of the sanitary authority of the district in which he is found, to any hospital in or within a convenient distance of London.

Infected persons prohibited from carrying on certain businesses (Sec. 69).

Section 69 imposes a fine not exceeding 10*l.* on a person who, knowing himself to be suffering from any dangerous infectious disease, engages in milking, fruit-picking, or any occupation connected with food, or carries on any trade or business in such a manner as to be likely to spread the infectious disease.

Infected persons not to be conveyed in public conveyances (Sec. 70).

Section 70 makes it unlawful for the owner or driver of a public conveyance knowingly to convey, or for any other person knowingly to place in such conveyance, a person suffering from any dangerous infectious disease, or for a person so suffering to enter any public conveyance. If either of these things is done, the offender will be liable to a fine not exceeding 10*l.* It is made the duty of the sanitary authority, when requested by the owner or driver of a public conveyance in which a person suffering from a dangerous infectious disease has been conveyed, to provide for its disinfection, and they may do so free of charge.

(*n*) Mortuaries, etc.

Duty of providing mortuaries and places for *post-*

The Public Health (London) Act, 1891, imposes on every sanitary authority the duty of providing a mortuary, and, when so required by the County Council, of providing a building otherwise than at a work-

house for the reception of dead bodies for *post-mortem* examinations.

mortem examinations (Secs. 88 and 90).

A building for *post-mortem* examinations may be provided in connection with a mortuary, but such examinations must not be conducted in the mortuary itself.

The sanitary authority may, with the consent of the Local Government Board, borrow for the purpose of providing mortuaries or buildings for *post-mortem* examinations.

Borrowing power for those purposes (Sec. 105).

Sanitary authorities, with the approval of the County Council, may combine to erect a mortuary or a building for *post-mortem* examinations, or may contract for the use by one sanitary authority of any such mortuary or building provided by another sanitary authority. They may so combine or contract upon terms agreed upon.

Power of sanitary authorities to combine (Sec. 91).

As already mentioned, the County Council are required to provide accommodation for the holding of inquests, and by agreement with a sanitary authority they may provide such accommodation in connection with a mortuary, or any building belonging to the sanitary authority, including a building for *post-mortem* examinations.

Accommodation for holding of inquests (Sec. 92).

(*o*) Medical Officers of Health and Sanitary Inspectors

The provisions of the Public Health (London) Act, 1891, relating to these officers differ very materially from the corresponding provisions of the Public Health Act, 1875, relating to the medical officers of health and inspectors of nuisances of urban and rural sanitary authorities.

Appointment of medical officers of health (Sec. 106).

Every sanitary authority in London is required to appoint one or more medical officers of health for its district. The same person may, with the sanction of the Local Government Board, be appointed medical officer of health for two or more districts. In such cases the Local Government Board are to prescribe the mode of appointment and the proportions in which the expenses thereof and the salary and charges of the officer are to be borne by the appointing authorities.

Every person appointed or reappointed after January 1, 1892, as medical officer of health of a London district must (except during the two months next after this appointment and in cases allowed by the Local Government Board) reside in that district, or within one mile from its boundary; and if while not so residing in accordance with the requirement he assumes to act or receives any remuneration as such medical officer of health, he will cease to hold the office.

A medical officer of health in London may exercise any of the powers with which a sanitary inspector is invested.

His annual report to the sanitary authority must be affixed to the annual report of that authority.

Every sanitary authority in London must appoint an adequate number of fit and proper persons as sanitary inspectors, and may distribute among them the duties to be performed by sanitary inspectors; and every such inspector must be a person qualified and competent by his knowledge and experience to perform the duties of his office.

Appointment of sanitary inspectors (Sec. 107).

Where the Local Government Board, on a representation from the County Council and after local inquiry, are satisfied that any sanitary authority in London has failed to appoint a sufficient number of sanitary inspectors, the Board may order the authority to appoint such number of additional inspectors and to allow them such remuneration as the order directs, and the sanitary authority must comply with the order.

Power of Local Government Board to require appointment of additional inspectors.

Duties of sanitary inspectors.

The sanitary inspectors must report to the sanitary authority the existence of any nuisances; and the sanitary authority must cause a book to be kept in which must be entered all complaints made of any infringement of the provisions of the Public Health (London) Act, 1891, or of any bye-laws made thereunder, or of nuisances; and every such inspector must forthwith inquire into the truth or otherwise of such complaints, and report upon the same; and such report is to be laid before the sanitary authority at their next meeting, and, together with the order of the sanitary authority thereon, must be entered in a book kept at their office, and open at all reasonable times to the inspection of any inhabitant of the district, and of any officer either generally or specially authorised for the purpose by the County Council; and it will be the duty of every inspector, subject to the direction of the sanitary authority, or of a committee thereof, to make complaints before justices and take legal proceedings for the punishment of any person for any offence under the Act or any such bye-laws.

Further provisions as to medical officers of health and sanitary inspectors (Sec. 108).

Subject to the provisions [1] of the Public Health (London) Act, 1891, as to existing officers, the Local Government Board have the same powers as they have in the case of a district medical officer of a Poor-law Union with regard to the qualification, appointment, duties, salary, and tenure of office of every medical officer of health and sanitary inspector in London, and one-half of the salary of every such medical officer and sanitary inspector will be paid by the County Council out of the Exchequer Contribution Account in accordance with Section 24 [2] of the Local Government Act, 1888, and that section is to be construed as if in Subsection 2 thereof the reference to the Public Health Act, 1875, included a reference to the Public Health (London) Act, 1891. This enactment is, however, subject to the following provisions:—

(*a*) A medical officer of health must be legally qualified for the practice of medicine, surgery, and midwifery, and also either be registered in the Medical Register as the holder of a diploma in sanitary science, public health, or State medicine under Section 21 of the Medical Act, 1886, or have been during three consecutive years preceding the year 1892 a medical officer of a district or combination of districts in London or elsewhere with a population according to the last published census of not less than 20,000, or have before the passing of the Local Government Act, 1888, been for not less than three years a medical officer or inspector of the Local Government Board; and

(*b*) A medical officer of health will be removable by the sanitary authority with the consent of the Local Government Board, or by that Board, and not otherwise. But the Board must take into consideration every representation made by the sanitary authority for the removal of any medical officer, whether based on the general interests of the district, on the conduct of such officer, or on any other ground.

(*c*) Any such medical officer must not be appointed for a limited period only; and

(*d*) A sanitary inspector appointed after January 1, 1895, must be holder of a certificate of such body [3] as the Local Government

[1] These provisions are contained in Section 142 (6) of the Act, which declares that officers appointed under any enactment repealed by the Act shall continue in office in like manner as if they were appointed in pursuance of the Act, subject to the provisions of the Act respecting existing officers.

[2] As to this section, see p. 207.

[3] The Local Government Board have, until they may otherwise direct, approved

Board may from time to time approve, that he has by examination shown himself competent for such office, or must have been, during three consecutive years preceding the year 1895, a sanitary inspector or inspector of nuisances of a district in London, or of an urban sanitary district out of London containing according to the last published census a population of not less than 20,000 inhabitants.

Temporary arrangement for performance of duties of medical officer or sanitary inspector (Sec. 109).

A sanitary authority, where occasion requires, may, with the sanction of the Local Government Board, make any temporary arrangement for the performance of all or any of the duties of a medical officer of health or sanitary inspector, and any person appointed by virtue of any such arrangement to perform those duties, or any of them, will, subject to the terms of his appointment, have all the powers, duties, and liabilities of a medical officer of health or sanitary inspector as the case may be.

Regulations as to medical officers of health and sanitary inspectors.

Under Section 108 of the Public Health (London) Act, 1891, the Local Government Board have, by an order dated December 8, 1891, prescribed regulations with respect to the appointment, tenure of office, salary, and duties of every medical officer of health and sanitary inspector appointed or reappointed in London by any sanitary authority on or after January 1, 1892, who has not been so appointed or reappointed in pursuance of any temporary arrangement made with the sanction of the Board under Section 109 of the Act. These regulations are very similar in terms to those [1] which apply to medical officers of health and inspectors of nuisances in the provinces, any part of whose salaries is paid by county councils.

III. THE COMMISSIONERS OF SEWERS OF THE CITY OF LONDON

Functions of Commissioners of Sewers.

The Commissioners of Sewers of the City of London, who are appointed by the Corporation of London under the City of London Sewers Act, 1848, as continued and amended by the City of London Sewers Act, 1851, exercise in the City of London functions in many respects analogous to those which are discharged by the sanitary authorities in other parts of the metropolis. They are the sanitary authority in the City for the execution of the Public Health (London) Act, 1891, and under the powers thus vested in them they deal with the various matters in respect to which the sanitary authorities exercise jurisdiction under that Act. They are also placed by that Act in the same position as other sanitary authorities as regards the appointment of medical officers of health and inspectors of nuisances. At the same time, they are not subject to the jurisdiction of the London County Council in the same manner as other sanitary authorities. Section 133 of the Act provides that in the application of the Act to the City of London: (*a*) there shall be no appeal from the Commissioners of Sewers to the County Council; (*b*) the bye-laws made by the County Council shall not extend to the City; (*c*) the County Council shall not have power to require the Commissioners of Sewers to provide and maintain a building for *post-mortem* examinations; and (*d*) the powers of the County Council under the Act to proceed in case of default of a sanitary

of the Sanitary Institute as a body, whose certificate shall be sufficient for the purposes of the requirements of this subsection.

[1] See pp. 208 to 213.

authority shall not extend to the Commissioners of Sewers. Special powers are given by Sections 134 and 135 of the Act to the Local Government Board to intervene in cases of default by the Commissioners of Sewers under that Act.

The Commissioners, moreover, besides administering their own special Acts, are under the general law the local authority for the purposes of the Sale of Food and Drugs Acts and the Factories and Workshops Acts.[1]

Functions analogous to those of County Council.

So far, their place in the sanitary administration of the metropolis is similar to that occupied by the metropolitan vestries and district boards. But in some other respects, owing to the exceptional position of the City, they possess powers which in the remainder of the metropolis are exercised by the County Council. Thus they are the local authority for the purposes not only of Part II., but also of Parts I. and III. of the Housing of the Working Classes Act, 1890,[2] and in the execution of Part II. of the Act they are in no way subject to the jurisdiction of the London County Council.

Commissioners are Burial Board for the City of London.

They are also in the exceptional position of being the Burial Board for the City of London.[3]

IV. THE CORPORATION OF LONDON

Sanitary powers and duties of the Corporation of London.

The Corporation of London are the local authority in the City of London for the purposes of the Contagious Diseases (Animals) Acts, 1878 and 1886,[4] the Gardens in Towns Protection Act, 1863,[5] the Metropolitan Open Spaces Acts, 1877 and 1881,[6] and the Open Spaces Act, 1887.[7] By the Corporation of London (Open Spaces) Act, 1878, they are authorised to acquire by purchase, gift, or otherwise the freehold or interest in common lands not within the Metropolis Management Act, but within twenty-five miles of the City, and all rights over such lands. They are also, as has already been stated,[8] the Port Sanitary Authority for the Port of London.

V. THE WOOLWICH LOCAL BOARD OF HEALTH

The parish of Woolwich is included in the metropolis and in the County of London, but it is in an altogether exceptional position. It is not under the jurisdiction of a metropolitan vestry, nor is it in combination with any other parish subject to a district board; but it is under a local board, having been constituted a district under the Public Health Act, 1848, by a provisional order confirmed in 1852. By virtue of Section 238 of the Metropolis Management Act, 1855, the County Council of London have within and in relation to this parish all the powers and duties vested in them under that Act, in like manner as within and in relation to the other parishes in the metropolis, with this exception--that the local board are subject to all orders of the County Council as to sewerage and otherwise, and to all precepts requiring payment of money in all respects as the metropolitan vestries are subject to the same.

Up to the year 1875 the Sanitary Acts applied to the Woolwich Local Board as to other local boards. But when those Acts were consolidated by the Public Health Act, 1875, Section 343 of that Act

[1] See pp. 134 to 141. [2] See pp. 82 to 89 and 96 to 98. [3] See note 2, p. 235.
[4] See pp. 143 to 147. [5] See pp. 295 and 296.
[6] See p. 154. [7] See p. 154. [8] See p. 220.

repealed some of them altogether, and others except so far as they related to the metropolis. Doubts having arisen as to whether such of them as were thus wholly repealed were in force in Woolwich, Section 2 of the Local Government Board's Provisional Orders Confirmation (Amersham Union, &c.) Act, 1880, provided that the Public Health Act, 1848, the Local Government Act, 1858, and the Sewage Utilisation Act, 1867, and certain Acts amending the same, which were wholly repealed by the Public Health Act, 1875, should, so far as they were in force in Woolwich prior to the passing of the Public Health Act, 1875, be deemed to have remained and to continue in force in Woolwich, anything in the last-mentioned Act to the contrary notwithstanding. Woolwich, therefore, was, until the passing of the Public Health (London) Act, 1891, in the unfortunate position of having the greater part of its sanitary law unconsolidated and unamended. One result of this state of things was that until 1889 its local board were not required to appoint a medical officer of health, and, as a matter of fact, they had no such officer. This defect was remedied by the Infectious Diseases (Notification) Act, 1889, Section 12 of which provided that that Act should apply to the Local Board of Woolwich in like manner as if it were a vestry under the Metropolis Management Act, 1855, and that all enactments relating to medical officers of health within the administrative County of London should apply to the medical officer of health of Woolwich. Two years afterwards the local board were made a sanitary authority for the purposes of the Public Health (London) Act, 1891, and Section 102 of that Act extended certain provisions [1] of the Public Health Acts to the parish and the local board in like manner as they apply to other urban sanitary districts and authorities, without prejudice to the effect of the Metropolis Management Acts, or to the powers, duties, and liabilities of the County Council and the local board under those Acts.

VI. COMMISSIONERS OF POLICE OF THE METROPOLIS

Common Lodging-houses

In the metropolis, outside the City of London, common lodging-houses [2] are regulated by the Common Lodging-houses Acts, 1851 and 1853, which were repealed except as regards the Metropolitan Police District, by Section 343 of the Public Health Act, 1875. Section 3 of the Act of 1851 provided that the Act should be executed within and for all parts of the Metropolitan Police District by 'the Commissioners [3]

Common Lodging-houses Acts executed by the police in metropolis, except in the City of London (Common Lodging-houses Act, 1851, Sec. 3).

[1] The provisions in question are Sections 4, 5 to 8, 10, 12, 13 to 34, 41 (so far as it applies to a drain), 51 to 61, 63, 65, 144 to 155, 157 to 168, 172 to 186, 188, 189, 192 to 197, 199 to 200, 203 to 207, 209 to 227, 233 to 243, 245, 247, 249 to 251, 253 to 269, 285, 293 to 311, 313 to 317, 327, and 339 to 341 of the Public Health Act, 1875, and the schedules to that Act so far as they are applicable; the Public Health (Fruit-pickers' Lodgings) Act, 1882; the Public Health Act, 1875 (Support of Sewers), Amendment Act, 1883; the Public Health (Confirmation of Bye-laws) Act, 1884; the Public Health (Officers) Act, 1884; the Public Health (Members and Officers) Act, 1885; the Public Health (Buildings in Streets) Act, 1888; and the Public Health (Rating of Orchards Act), 1890.

[2] As to what constitutes a common lodging-house, see p. 71.

[3] By a provisional order of the Local Government Board, dated May 7, 1894, which has been issued while this work has been passing through the press, it is proposed to transfer the powers and duties of the Commissioners under those Acts to the London County Council, as from November 1, 1894. The Bill for confirming this order has now become law.

of Police of the Metropolis,' or such one of them as is from time to time appointed in that behalf by one of Her Majesty's principal Secretaries of State. But outside the metropolis at the present time the provisions of the Public Health Act as to common lodging-houses [1] appear to apply; and virtually, therefore, it is only in such part of the Police District as is situate in the metropolis that these Acts are virtually in operation.

egister of common lodging-houses to be kept (Sec. 7).

Section 7 of the Common Lodging-houses Act, 1851, requires the Commissioners of Police to keep a register, in which shall be entered the names and residences of the keepers of all common lodging-houses within their jurisdiction, and the situation of every such house, and the number of lodgers authorised, according to the Act, to be kept therein.

Power to make regulations subject to confirmation of Secretary of State (Sec. 9).

Section 9 enables them from time to time to make regulations, enforceable by penalties, subject to the confirmation of the Secretary of State, respecting common lodging-houses within their jurisdiction, for purposes [2] which are for the most part the same as those for which sanitary authorities are authorised by the Public Health Act, 1875, to make bye-laws in relation to these establishments.

Unregistered houses not to be used as common lodging-houses (Poor Law Act, 1853, Sec. 3).

Section 3 of the Act of 1853 prohibits persons from keeping a common lodging-house, or receiving any lodger therein, until the house has been inspected and approved for that purpose by some officer appointed in that behalf by the Commissioners of Police, and has been registered as provided by the Act of 1851, and unless the name of the keeper is entered on the register. But on the death of the person registered as the keeper five weeks' grace is allowed, during which the widow or any member of the family of the deceased may keep the house without further registration.

Registration may be refused unless certificate of character is produced (Sec. 4).

The Commissioners of Police may refuse to register as the keeper of a common lodging-house a person who does not produce to them a certificate of character, in such form as they shall direct, signed by three inhabitant householders of the parish rated to the relief of the poor for property of the yearly rateable value of 6*l.* or upwards.

Keepers of common lodging-houses to give notice of fever, &c., therein (Common Lodging-houses Act, 1851, Sec. 11).

The keeper of a common lodging-house must, when a person in such house is ill of fever or any infectious or contagious disease, give immediate notice [3] thereof to the Commissioners of Police, or some officer of the Commissioners, and also to the Poor-law medical officer and the relieving officer of the union or parish in which the common lodging-house stands.

Removal of sick persons from common lodging-houses to hospitals. Disinfection, &c. (Common Lodging-houses Act, 1853, Sec. 7).

The Commissioners of Police may cause any person, who in any common lodging-house is ill of fever or of any infectious or contagious disease, to be removed to a hospital or infirmary with the consent of the authorities thereof, and on the certificate of the medical officer of the parish, place, or district that the disease is infectious or contagious, and that the patient may be safely removed; and may, so far as they think requisite for preventing the spread of disease, cause any clothes or bedding used by such person to be disinfected or destroyed; and may, if they think fit, award to the owners of such clothing or bedding reasonable compensation for the disinfection or destruction thereof, such compensation being payable out of the poor-rates.

[1] There is nothing in the Public Health Act, 1875, from which it might be implied that sanitary authorities whose districts are partly within the Metropolitan Police District may not exercise the powers as regards common lodging-houses given to sanitary authorities by that Act.

[2] As to these purposes, see p. 75.

[3] This is irrespective of the notice required under the Infectious Diseases (Notification) Act, 1889, as to which see p. 176.

The keeper of a common lodging-house, and every other person having or acting in the care or management thereof, must at all times, when required by any officer of police, give him free access to such house and every part thereof.

Free access to be given to police for inspection (Common Lodging-houses Act, 1851, Sec. 12).

He must also thoroughly cleanse all the rooms, passages, stairs, floors, windows, doors, walls, ceilings, privies, cesspools, and drains thereof to the satisfaction of, and so often as shall be required by or in accordance with any regulation or bye-law of the Commissioners of Police, and well and sufficiently and to the like satisfaction limewash the walls and ceilings in the first week of April and October in every year.

Cleansing, limewashing, &c., of common lodging-houses (Sec. 13).

Where it appears to the Commissioners of Police that a common lodging-house is without a proper supply of water for the use of the lodgers, and that such a supply can be furnished thereto at a reasonable rate, they may by notice in writing require the owner or keeper of the common lodging-house, within a time specified therein, to obtain such supply, and to do all works necessary for that purpose; and if the notice is not complied with they may, until it is complied with, remove the common lodging-house from the register.

Power of police to require additional water-supply (Common Lodging-houses Act, 1853, Sec. 6).

The keeper, or other person having the care or management of a common lodging-house in which beggars or vagrants are received to lodge, must from time to time, if required by any order of the Commissioners of Police served on him, report to them, or to such persons as they direct, every person who resorted to such house during the preceding day or night, and for that purpose schedules must be furnished by the Commissioners of Police to the persons so ordered to report, which schedules they must fill up with the information required and transmit to the Commissioners of Police.

Power of police to order reports as to beggars and vagrants in common lodging-houses (Sec. 8).

The provisions of these Acts and of the regulations made thereunder are enforceable by penalties recoverable summarily; and on any conviction for a third offence the justices may, if they think fit, adjudge that the offender shall not at any time within five years after the conviction, or within such shorter period as they think fit, keep or have or act in the care or management of a common lodging-house without the previous licence in writing of the Commissioners of Police, which licence the Commissioners may withhold or grant on such terms and conditions as they think fit.

Penalties. Result of third conviction (Secs. 11 and 12).

VII. THE METROPOLITAN ASYLUMS BOARD

The Metropolitan Poor Act, 1867, empowered the Poor-law Board, by order, to combine into districts, unions, or parishes, or unions and parishes, wholly or for the greater part thereof situate in the metropolis, for the provision of 'asylums for the reception and relief of the sick, insane, or infirm, or other class or classes of the poor chargeable' in such parishes and unions; and provided that for the asylum or asylums of each district there should be a body of managers constituted as in the Act provided, with power, subject and according to the orders of the Poor-law Board, to take, hold, and dispose of lands and other property for the purposes of the asylum district. The same Act authorised the Poor-law Board from time to time, by order, to direct the managers to purchase or hire or to build, and in either case to fit up a building or buildings for the asylum of such nature and size,

Power of Poor-law Board to combine unions and parishes in metropolis into asylum districts (Metropolitan Poor Act, 1867, Secs. 5 and 6).

Power of managers to purchase, hire, or build asylums (Sec. 15).

and according to such plan and in such manner as the Poor-law Board might think fit, and required the managers to carry such directions into execution. For the purposes of the asylum the Act gave the managers the like powers as might be for the time being vested in metropolitan boards of guardians relative to the purchase and hiring of lands or buildings, and enabled them to borrow money for purchasing lands or buildings, and for building, fitting up, and furnishing buildings erected or hired for the asylum, according to the provisions of the Poor-law Acts, under which guardians might for the time being be empowered to borrow money, subject to certain special provisions contained in the Act. It also required the managers from time to time to provide for the asylum necessary fixtures, furniture, and conveniences, and such as the Poor-law Board might from time to time by order direct; and declared that the mode of admission of persons into the asylum should be such as the Poor-law Board might from time to time by order direct. It further gave the managers the like powers as guardians for the relief, maintenance, and management of the inmates of the asylum, and required them from time to time to provide such medicines, appliances, and requisites for the medical and surgical care and treatment of the inmates, and to cause the same to be furnished and used according to such rules as the Poor-law Board might from time to time by order direct.

Power of managers as regards purchase and hiring of lands, borrowing of money, provision of furniture, &c. (Secs. 16 to 22).

Under this Act the unions and parishes wholly[1] or for the greater part situate in the metropolis were, by an order of the Poor-law Board, dated May 15, 1867, combined into a district, termed the Metropolitan Asylums District, 'for the reception and relief of the classes of poor persons chargeable to some union or parish in the said district respectively, who may be infected with or suffering from fever,[2] or the disease of small-pox, or who may be insane.' This order constituted the Metropolitan Asylums Board a board of management for the district. As originally constituted the Board consisted of sixty managers, of whom forty-five were elected by the guardians and fifteen were nominated by the Poor-law Board. By an order of the Local Government Board dated September 3, 1886, the number of elective members was increased to fifty-four, and the number of nominated members to eighteen. For the purposes of the present work it will be sufficient to deal with the powers and duties of this body so far as they relate to infectious diseases.

Constitution of Metropolitan Asylums District. Order of Poor-law Board of May 15, 1867.

Order of Local Government Board of September 3, 1886.

In the year 1871 all the provisions of the Metropolitan Poor Act, 1867, relating to the procuring of any buildings for the purposes of an asylum under that Act were made to apply to any ship, vessel, hut, tent, or other temporary erection which might be used by the managers, with the approval of the Poor-law Board, for the reception of paupers, or otherwise, for the purposes of the asylum; and such ship, vessel, hut, tent, or other temporary erection was for all the purposes of the Act of 1867 to be deemed to be an asylum specially provided under it. The managers were thus empowered to provide ships, huts, tents, or other temporary structures as infectious hospitals. In the same year all the powers and duties of the Poor-law Board passed to the Local Government Board.

Provisions as to asylums made applicable to ships, vessels, huts, tents, &c. (Metropolitan Poor Act, 1871, Sec. 1).

[1] The Metropolitan Asylums District at the present time includes all the arishes in the metropolis with the exception of Penge. That parish is comprised in the Croydon Union, the greater part of which is outside the metropolis.

[2] As regards the extension of this term to diphtheria, see p. 336.

Admission of persons into the hospitals of the managers (Order of Local Government Board of February 10, 1875, Art. 2).

As already mentioned, the Act of 1867 provided that the mode of admission of persons into the asylums of the managers should be such as the Poor-law Board might from time to time by order direct. Amended regulations on this subject, as regards the fever and small-pox asylums of the managers, were prescribed by an order of the Local Government Board dated February 10, 1875. Art. 2 of this order requires that the paupers to be admitted into any asylum provided or appropriated for fever[1] patients shall be such only as are infected with or suffering from fever; and that the paupers to be admitted into any asylum provided or appropriated for small-pox patients shall be such only as are infected with or suffering from small-pox. Art. 3[2] provided that every pauper, whether upon his first or any subsequent admission into an asylum, should, subject to the provisions of Art. 4 (which are set out below), be admitted upon an order filled up and signed by a relieving officer or a master of a workhouse of the union or parish from which he is sent to the asylum; and that the order of admission should be accompanied by a certificate, in a form prescribed by the regulations, signed by the medical officer either of the workhouse or district, as the case might be, of the union or parish to which the pauper is chargeable; which certificate such medical officer was required to give upon the request of the master of the workhouse or relieving officer in every case in which, after due examination, he might find the pauper a fit person for admission into the asylum. Art. 4, however, provides that if any person presents himself at an asylum without the order and certificate required by Art. 3, and the medical superintendent is satisfied that the person is suffering from fever or small-pox, and is in such a condition that a refusal to admit him without such order and certificate might be attended with dangerous results, the medical superintendent may admit such person; and the steward thereupon shall give notice in writing of such admission, accompanied by a written statement of the circumstances of the case, to the guardians of the union or parish in which the person last passed the night, if such union or parish be included in the metropolis, or if it be not so included, then to the guardians of the union or parish in which the asylum is locally situated. Art. 5 declares that any person admitted into an asylum under Art. 4 shall be subject in all respects to the regulations of the asylum as if he had been admitted with the usual order. Art. 11 prohibits the admission into or retention in the asylum by the managers of a larger number of paupers than that which has been fixed as the maximum by the Local Government Board or their predecessors, except in any individual case of urgency, which is to be forthwith reported to the Local Government Board by the clerk to the managers. By Art. 12 the steward is required, whenever the number of paupers is within ten of the number fixed as the maximum, to give notice to that effect to the guardians of each union or parish comprised in the district, and also to the effect that until such notice has been revoked inquiry must be made at the asylum, before any fresh case is sent, in order to ascertain whether the case can be received.

Art. 3.

Art. 4.

Art. 5.

Art. 11.

Art. 12.

[1] As to diphtheria, see p 336.

[2] Art. 3 was subsequently rescinded by an order of the Local Government Board dated July 7, 1887, and re-enacted with modifications, enabling the certificate therein referred to to be signed by any registered medical practitioner after the examination by him of the person proposed to be sent to the asylum. A new form was prescribed for the certificate in cases where it should be made by the medical practitioner.

Difficulty in restricting the hospitals of the managers to the reception of pauper cases.

It will be seen from what has been already stated that the Metropolitan Asylums Board was originally constituted solely as a Poor-law authority, and that its infectious hospitals were intended for the reception of pauper patients only; but that it was found impracticable thus to restrict the use of these establishments by prohibiting the admission thereto of non-pauper cases when the refusal to admit them might be attended with dangerous results. This difficulty, which has not unfrequently arisen in connection with hospitals provided by other Poor-law authorities in cases where the sanitary authorities have neglected to perform the duty imposed on them by the Legislature of providing proper hospital accommodation for their districts, proved insurmountable in London, in consequence of the general disinclination of the vestries and district boards to provide hospitals; and as the asylums of the managers were not in any way connected with workhouses, there was, on the one hand, less indisposition on the part of non-paupers to avail themselves of them; and, on the other hand, their utilisation for the reception of non-paupers was not, as in cases where workhouse hospitals are thus used, a source of danger to the paupers. It therefore came about that at an early stage in their history these hospitals were largely resorted to by persons who were not paupers.

Powers of managers in respect of patients who are not pauper (Divided Parishes and Poor-law Amendment Act, 1876, Sec. 42).

It consequently became necessary to define by statute the powers of the managers in respect of patients who were not paupers. This was done in 1876 by Section 42 of the Divided Parishes and Poor-law Amendment Act, 1876, which provided that if the managers should have admitted any sick person into their asylums not being a pauper, but under circumstances of urgency, they should have, and might exercise, the like powers over him, and have the like remedies for the recovery of all reasonable charges incurred on his behalf as were conferred by the Poor-law Acts upon guardians over paupers, and for the recovery of relief given, or deemed to be given, by way of loan to any such pauper. But these powers and remedies were not to be exercised or put in force by the managers until they had been authorised to do so (*sic*) by the Local Government Board, and were to be exercised subject to any restrictions which might be imposed from time to time by that Board. And it was provided that no sum should be recoverable by the managers under the provisions of this Act in respect of any expenses incurred by them other than those which should be the subject of a separate charge in respect of an inmate of any union or parish in the district.

Power of Metropolitan Asylums Board to contract with local authorities for reception, &c., in hospital of persons suffering from dangerous infectious disorder (Poor-law Act, 1879, Sec. 15).

Three years later the reception of non-pauper patients in the hospitals of the Metropolitan Asylums Board was further recognised by Section 15 of the Poor-law Act, 1879, which authorised the Board from time to time, with the approval of the Local Government Board, to contract with any local authority [1] in the metropolis acting in the execution of the Nuisances Removal Acts for the reception and maintenance in any hospital belonging to or under the management of the Asylums Board of any person suffering from any dangerous infectious disorder within the district of any such local authority; and provided that any person received into any hospital by virtue of any such contract under this section should be deemed to be maintained in such hospital by the local authority with whom the contract was

[1] I.e. the metropolitan vestries and district boards, the Commissioners of Sewers of the City of London, and the Woolwich Local Board.

made. This section has since been repealed by the Public Health (London) Act, 1891.

Power of Asylums Board to provide ambulances (Sec. 16).

Section 16 of the Poor-law Act, 1879, also enabled the managers from time to time to provide and maintain carriages suitable for the conveyance of persons suffering from any infectious disorder, and to cause the same to be properly cleansed and disinfected, and to provide and maintain such buildings and horses, and employ such persons and do such other things as were necessary or proper for the purposes of such conveyance. This section has been repealed, and its provisions re-enacted, with amendments, in the Public Health (London) Act, 1891.

Asylums Board to be local authority for purposes of the Diseases Prevention Act, 1855 (Diseases Prevention (Metropolis) Act, 1883, Sec. 2).

The position of the managers as the chief infectious hospital authority for London was still more clearly recognised by the Diseases Prevention (Metropolis) Act, 1883,[1] which was passed at a time when this country was threatened with an invasion of cholera, and it became, therefore, necessary to determine what steps should be taken by the various local authorities in the event of the disease appearing in London.

The decision arrived at by the Local Government Board on this occasion is explained in the Thirteenth Annual Report of the Board (pages xxxvii and xxxviii). They decided 'that the managers should be empowered to organise, independently of Poor-law relief, and irrespectively of the metropolitan vestries and district boards, a certain amount of hospital provision for the earliest cases of an epidemic, while leaving untouched the serious responsibilities which would devolve on the vestries and district boards in the event of the disease becoming prevalent in any particular district.'

Use of hospitals of managers for medical instruction (Poor-law Act, 1879, Sec. 4).

The following additional powers were also conferred on the managers by the Poor-law Act, 1879. Section 4 enabled them, if they should think fit, to allow the asylums provided by them for fever, small-pox, and diphtheria to be used for purposes of medical instruction, subject to any rules and regulations which the Local Government Board might from time to time make with regard to such use of the asylum.

Power to purchase lands adjoining hospital (Sec. 5).

Section 5 gave them full power, with the consent of the Local Government Board, to purchase such land adjacent to an asylum provided by them as is required for the purposes of any such asylum; and provided that for the purpose of such purchase Sections 176 and 296 to 298,[2] both inclusive, of the Public Health Act, 1875, should apply as if they were re-enacted, and in terms made applicable to the managers and to the purposes of this section.

Later statutory provisions relating to the Metropolitan Asylums Board are contained in the Public Health (London) Act, 1891. Section 79 of that Act authorises them to continue to maintain the wharves, landing-places, and approaches thereto heretofore provided by them, whether within or without London, and to use the same for the embarkation and landing of persons removed to or from any hospital belonging to the managers, and for any other purpose in relation thereto.

Power for Metropolitan Asylums

The same section enables them to provide and maintain vessels for use in connection with their wharves or landing-places and with their

[1] This Act, when passed, was to continue in force until September 1, 1884. It was afterwards continued yearly until its provisions were consolidated in the Public Health (London) Act, 1891.

[2] As to these sections, see pp. 25 and 26.

Board to provide landing-places, vessels, ambulances, &c. (Public Health (London) Act, 1891, Sec. 79).

hospitals, and also carriages suitable for the conveyance of persons suffering from any dangerous infectious disease, and to cause the vessels and carriages to be from time to time properly cleansed and disinfected, and to provide and maintain such buildings and horses, and employ such persons, and do such other things as are necessary or proper for the purposes of such conveyance. It further empowers them to allow any of their carriages, with the necessary attendants, to be used for the conveyance of persons suffering from any dangerous infectious disease to and from hospitals and places other than hospitals provided by them, and to make a reasonable charge for that use.

Reception of non-pauper fever and small-pox patients into hospital in metropolitan district (Sec. 80).

Section 80 of the same Act provides that the managers may, subject to such regulations and restrictions as the Local Government Board prescribe, admit any person who is not a pauper, and is reasonably believed to be suffering from fever or small-pox or diphtheria, into a hospital provided by the managers.

The expenses incurred by the managers for the maintenance of any such person are to be paid by the board of guardians of the Poor-law union from which he is received, but they are to be repaid to the board of guardians out of the metropolitan common poor fund.

The admission of a person suffering from an infectious disease into any hospital provided by the managers, or the maintenance of any such person therein, is not, however, to be considered to be parochial relief, alms, or charitable allowance to any person, or to the parent or husband of any person; nor will any person, or his or her parent or husband, be by reason thereof deprived of any right or privilege, or be subjected to any disability or disqualification.

Reception into hospital in metropolitan district of child from school outside London (Sec. 81).

Section 81 of the Act declares that when the London School Board send any child to an industrial school which is provided by them outside London, such child shall for the purpose of the enactments relating to the managers be deemed to continue to be an inhabitant of London, and if the child is sent to any hospital of the managers he shall be deemed to have been sent from that place in London from which he was sent to the industrial school.

This section will apply to that part of London which is not within the Metropolitan Asylum district as if it were within that district, and the board of guardians of the Poor-law union comprising that part are to pay for such child accordingly.

Duties of Metropolitan Asylums Board under epidemic regulations (Sec. 85).

As already mentioned,[1] the decision arrived at by the Local Government Board in 1883, when the country was threatened with an epidemic of cholera, was that the managers should be empowered to organise a certain amount of hospital accommodation for the earliest cases of the epidemic, leaving untouched the duties which would devolve on the sanitary authorities in the event of the disease becoming prevalent in any particular district, and the necessary legislation for this purpose was embodied in the Disease Prevention (Metropolis) Act, 1883. This legislation is now contained in the Public Health (London) Act, 1891, Section 85 of which provides that the managers shall for the purpose of the epidemic regulations[2] issued by the Local Government Board have such powers and duties of a sanitary authority as may be assigned to them by the regulations; and that the Local Government Board may make regulations for that purpose and thereby provide for the adjustment of the functions of the managers relatively to those of any sanitary authorities.

[1] See p. 335.

[2] As to these regulations, see pp. 187 to 191.

Subject to such regulations the managers may use any of their property, real or personal, and their staff, for the execution of any powers or duties conferred or imposed on them under this section.

Power to let hospitals, &c. (Sec. 86).

Any authority or body of persons having the management and control of any hospital, infirmary, asylum, or workhouse may let the same or any part thereof to the managers, and enter into and carry into effect contracts with the managers for the reception, treatment, and maintenance therein of persons suffering from cholera or choleraic diarrhœa within the district of the managers. This power may not, however, without the consent of the Local Government Board, be exercised with respect to any asylum under the Metropolitan Poor Act, 1867, or any workhouse.

Expenses of Metropolitan Asylums Board (Sec. 164).

All expenses incurred by the managers in the execution of the provisions of the Public Health (London) Act, 1891, relating to the provision and maintenance of carriages, buildings, and horses, and the conveyance in such carriages of persons suffering from any dangerous infectious disease, will, to such extent as the Local Government Board may sanction, be defrayed out of the metropolitan common poor fund.

The provision of vessels and buildings in pursuance of the Act will be purposes for which the Metropolitan Asylum Managers may borrow in pursuance of the Metropolitan Poor Act, 1867, and any Acts amending the same.

VIII. COMMISSIONERS OF BATHS AND WASH-HOUSES

Baths and Wash-houses Acts executed in the metropolis by Commissioners of Baths and Wash-houses.

It has already been mentioned[1] that the Baths and Wash-houses Acts may be adopted in any metropolitan parish by the vestry, with the approval of the Local Government Board, and that where this is done commissioners must be appointed to put them into execution. These commissioners are appointed by the vestry, and must consist of not less than three or more than seven persons, ratepayers of the parish, of whom one-third, or as nearly as may be one-third (to be determined among themselves), must go out of office yearly, but will be eligible for immediate re-appointment. Any vacancies in the commissioners are filled up by the vestry. The expenses of carrying the Baths and Wash-houses Acts into execution in each parish to such amount as may be from time to time sanctioned by the vestry are chargeable upon the moneys applicable to the relief of the poor in the parish, so far as they are not met by the revenue from the baths and wash-houses and bathing-places provided by the commissioners. It appears from the Local Taxation Returns[2] for the year 1890–91 that up to March 25, 1891, Commissioners of Baths and Wash-houses had been appointed in 24 parishes in the metropolis.

Provisions of these Acts which are specially applicable to commissioners.

The provisions of the Baths and Wash-houses Acts so far as they are applicable to urban sanitary authorities have already been explained, and it is only necessary, therefore, in the present place to draw attention to such of the provisions of these Acts as are applicable to Commissioners of Baths and Wash-houses, and not to urban sanitary authorities.[3]

[1] See p. 148.
[2] See Part III. of the Local Taxation Returns for 1890–91.
[3] See pp. 147 to 152.

Vestries of two or more parishes may concur in carrying the Acts into execution, subject to the approval of the Local Government Board (Baths and Wash-houses Act, 1846, Sec. 19).

Section 19 of the Baths and Wash-houses Act, 1846, enables the vestries of any two or more neighbouring parishes which have respectively adopted these Acts to concur in carrying them into execution in such manner, not inconsistent with the provisions of the Acts, as they may mutually agree. And for that purpose it may, with the approval of the Local Government Board, be agreed on between such vestries that any public baths and wash-houses and open bathing-places shall be erected and made in any one of such parishes, to be vested in the commissioners thereof; and that the expenses of carrying the Acts into execution shall be borne by such parishes in such proportions as the vestries shall mutually agree; and subject to the terms so agreed on the commissioners appointed for each of such parishes will, in the management of such baths and wash-houses and bathing-places, form one body of commissioners.

Approval of vestry necessary to borrowing, appropriation of lands, &c. (Secs. 21, 24, 27, and 31).

In addition to the other approvals required in the case of urban sanitary authorities acting under the Baths and Wash-houses Acts, the approval of the vestry is required before Commissioners of Baths and Wash-houses can borrow money, or appropriate parish lands, or purchase or rent lands or existing baths and wash-houses, or sell or exchange lands for the purposes of these Acts. Where it is proposed to appropriate parish lands for these purposes, the consent of the board of guardians is also necessary.

THE LAW

RELATING TO THE

PUBLIC HEALTH IN IRELAND

PREFATORY NOTE

The remarks made in the memorandum prefatory to the article on the Law of Public Health in England and Wales apply with almost equal force to that law in Ireland, one exception being that in Ireland there is no special sanitary district bearing the same relation to the rest of the country that London bears to the other parts of England. In Ireland the public health administration is governed mainly by the provisions of the Public Health Acts, 1878 to 1890, and the sanitary orders issued by the Local Government Board for Ireland in pursuance of the first of these statutes. The Public Health Act, 1878, and amending Acts may be said to control the action of sanitary authorities in rural districts to the exclusion of other enactments, for the Labourers (Ireland) Acts, 1883 to 1892, which are closely concerned with the promotion of healthy surroundings for the agricultural labourer, are to be regarded as part of the Act of 1878, while the Contagious Diseases (Animals) Acts only bear indirectly upon the public health. These Acts are administered by the several Boards of Guardians, subject to orders in Council issued from time to time under the authority of the Lord Lieutenant in Council, and in so far as they relate to dairies, cowsheds, and milkshops in rural and urban districts, they are carried out by the several rural and urban sanitary authorities under orders made by the Local Government Board.

Urban areas, the aggregate population of which in Ireland bears a smaller proportion to the total population than is the case in England, are partly governed by the provisions of the Public Health Act of 1878, but there are many small towns still under the jurisdiction of rural sanitary authorities. Where an urban sanitary authority exists the provisions of the Act of 1878 referring to urban districts are in operation, and in addition to these such districts are in some instances governed by special Acts, and in the majority of cases by the provisions of the Towns Improvement (Ireland) Act of 1854 and the incorporated provisions of the Towns Improvement Clauses Act, 1847.

Great advantage would undoubtedly result from a consolidation and simplification of the various Acts bearing upon public health administration in Ireland, similar to what has been so admirably done in the case of the Housing of the Working Classes Act, 1890, and it is further necessary that certain defects of the Public Health (Ireland) Act of 1878 should be amended. This Act was drafted upon the lines of the English Act of 1875, but, as will be pointed out in detail in the following pages, some important and apparently accidental omissions seriously diminish the value of the Irish Act. Thus, the power contained in the English Public Health Act, enabling the Local Government Board to extend to a rural district certain provisions applicable only to urban districts, has not been included in the Irish Act, and

this unfortunate omission leaves some hundreds of small towns in Ireland unprovided, *inter alia*, with public lighting and such sanitary conveniences as public urinals. On the other hand, this omission is compensated for in a slight degree by certain powers, which in the English Act are primarily confined to urban authorities, being extended to all rural authorities in Ireland. Again, the absence of any power, such as is given by the English Act, to an urban authority to allocate the cost of improvements to the district specially benefited thereby, is an omission from the Irish Act to be regretted, as it operates in many cases in checking the extension of necessary sewerage and other sanitary works. The omission to carry into the Irish Act the power conferred by the Act of 1875 upon the English Local Government Board to create, by provisional order, port sanitary authorities, may operate injuriously in the event of an outbreak of cholera at any of the larger Irish ports. There are also several cases occurring in the Sanitary Acts in which the Act dealt with is made applicable to Ireland by a special clause, but the object of the extension to that country is not gained owing to the wording of the sections. In some instances the omission of a proper interpretation clause would appear to leave the expenses unprovided for when the Act is applied to Ireland, though the powers and duties are in such respect duly conferred and imposed. The absence from the Irish Public Health Act, 1878, of a continuing section similar to section 313 of the English Act, 1875, is an omission which renders difficult the application of Acts imposing duties on sanitary authorities prior to the passing of the Act of 1878. Omissions such as these appear to call for immediate legislation; and the opportunity thus afforded might with advantage be made use of for the purpose of consolidating in one comprehensive Act all the provisions distributed throughout a variety of enactments dealing with public health matters in Ireland.

The provisions contained in these Sanitary Acts may, on the whole, be regarded as sufficient to cope with any danger affecting the public health; but it is more than questionable whether the several local authorities throughout Ireland charged with the execution of the Acts have by wise and energetic administration given full effect to the extensive powers vested in them. To remedy abuses and to insure a steady sanitary progress a public opinion must be created, and this can only be done by the dissemination of sound views on hygiene and public health among the people at large.

PUBLIC HEALTH LAW, IRELAND

The Public Health (Ireland) Act, 1878, was drawn in a great measure on the lines of the Public Health Act, 1875; but there are some not inconsiderable differences in the enactments which are partly due to the special constitution of local authorities in Ireland, the necessary modifications dependent on the consolidation in the Irish Act of statutes which only applied to Ireland, and to experience gained in the working of the English Act from 1875 to 1878. For some of them, however, no apparent reason can be assigned.

The differences between the provisions of the Irish and English Public Health Acts will here be pointed out seriatim under the heads given in the preceding chapter, so that, read with such modifications, that chapter will fully express the working of the law of public health in Ireland.

PART I

URBAN AND RURAL SANITARY DISTRICTS AND AUTHORITIES

I. URBAN AND RURAL SANITARY DISTRICTS

By the Public Health Act, 1878, the whole of Ireland is divided, without exception, into (*a*) urban sanitary districts, and (*b*) rural sanitary districts, and each district is made subject to the jurisdiction of a sanitary authority. Urban sanitary districts consist of:—

Division of Ireland into sanitary districts (Public Health [Ireland] Act, 1878, Secs. 3, 4, and 6).

1. The City of Dublin.
2. Towns corporate (except Dublin).
3. Towns, the population of which, according to the parliamentary census of 1871, exceeded 6,000, having commissioners under the 'Lighting of Towns (Ireland) Act, 1828' (9 Geo. IV. cap. 82).
4. Towns, the population of which, according to the parliamentary census of 1871, exceeded 6,000, having municipal commissioners under the 'Municipal Corporations (Ireland) Act, 1840' (3 & 4 Vict. cap. 108).
5. Towns, the population of which, according to the parliamentary census of 1871, exceeded 6,000, having commissioners under the 'Towns Improvement (Ireland) Act, 1854' (17 & 18 Vict. cap. 103).
6. Towns or townships having commissioners under local Acts.

Sec. 7.

7. Towns, having commissioners under any Act, which have been constituted urban sanitary districts by provisional orders made by the Local Government Board and confirmed by Parliament.

At the present time the number of towns corporate, including Dublin, is eleven, and the number of towns under local Acts, twelve; these are all urban sanitary districts. The only town having municipal commissioners under the 3 & 4 Vict. cap. 108, is Carrickfergus, which is an urban sanitary district; and of the eight towns under 9 Geo. IV. cap. 82, four are urban districts, viz., Armagh, Monaghan, Wicklow, and Youghal. The latter Act can no longer be adopted by any town in Ireland, and the majority of urban sanitary districts consist of towns under the 17 & 18 Vict. cap. 103, of which districts there are at present forty-three.

The towns corporate, the city of Dublin, and the town of Carrickfergus, are also 'boroughs' within the meaning of the Public Health Act, 1878; and in every case the boundaries of the town or borough and of the urban sanitary district are conterminous.

Sec. 6.

A rural sanitary district consists of that portion of a poor law union not included in an urban sanitary district. There are 159 rural sanitary districts at present in Ireland.

II. URBAN SANITARY AUTHORITIES

Different kinds of urban sanitary authorities (Sec. 4).

There are seven kinds of urban sanitary authorities :—

1. The corporation of the city of Dublin.
2. The corporation of other towns corporate.
3. The commissioners of towns of more than 6,000 inhabitants in 1871, under 9 Geo. IV. cap. 82.
4. The municipal commissioners of towns of more than 6,000 inhabitants in 1871, under the 3 & 4 Vict. cap. 108.
5. The commissioners of towns of more than 6,000 inhabitants in 1871, under 17 & 18 Vict. cap. 103.
6. Town and township commissioners of towns and townships under local Acts, irrespective of population.

Sec. 7.

7. The commissioners of towns constituted urban sanitary authorities by provisional orders made by the Local Government Board and confirmed by Parliament.

Power to appoint committee (Sec. 5).

Urban sanitary authorities have the same power as in England to appoint committees, subject to the same restrictions.

Cases of lapsed urban districts (47 & 48 Vict., c. 77, s. 2).

On the dissolution or cesser of the sanitary authority of an urban sanitary district, the lapsed urban sanitary district becomes part of the rural sanitary district in which it is situated. All the property, including municipal buildings, and liabilities of the urban authority become, without any assignment, transferred to and vested in the rural sanitary authority, on the assent of the Treasury being signified to that course. In case the lapsed urban district is again constituted an urban district, the Local Government Board may by order vest in the urban authority the property previously transferred to the rural authority, and may adjust the accounts of the urban and rural authorities.

42 & 43 Vict., c. 57, s. 2.

Sanitary authorities not otherwise incorporated are corporate bodies for the purposes of the Public Health Act, under the title of the

sanitary authority of the sanitary district, with perpetual succession and a common seal, and with power to sue and be sued in their corporate capacity.

III. RURAL SANITARY AUTHORITIES

Constitution of rural sanitary authorities (Public Health [Ireland] Act, 1878, Sec. 6).

The guardians of the union as a corporate body are constituted the rural sanitary authority of the rural sanitary district, subject to the following three conditions :—(1) No elective guardian of any electoral division of the union forming or being wholly included within an urban sanitary district may act or vote as a member of the rural sanitary authority ; (2) no ex-officio guardian[1] may so vote if resident in an urban sanitary district, unless he is the owner or occupier of property, situate in the rural sanitary district, of a value sufficient to qualify him as an elective guardian for the union ; and (3) where part of an electoral division belonging to a union forms or is situated in an urban sanitary district, the Local Government Board may by order divide the electoral division into separate wards and determine the number of guardians to be elected by such wards respectively, in such manner as to provide for the due representation of the part of the electoral division lying within the rural sanitary district ; but until such an order has been made, the guardian or guardians of the electoral division may act and vote as members of the rural sanitary authority in the same manner as if no part of the electoral division formed part of or was situated in an urban sanitary district.

Cases where vice-guardians are appointed.

The expression ' guardians of the union ' includes the ' paid officers,' styled ' vice-guardians,' appointed in cases where the board of guardians have been dissolved for default in the execution of their duties under the provisions either of the Poor Relief Acts or of the Public Health Act.

There is no provision in the Irish Act enabling the Local Government Board to nominate members of the rural sanitary authority when the number of members is less than five, owing, probably, to the fact that the conditions which obtain in England as to urban sanitary districts comprising the whole or the greater part of unions do not exist in Ireland.

Rural sanitary authorities cannot delegate their powers to committees.

Neither is any power given by the Irish Public Health Act to a rural sanitary authority to delegate their powers and duties to a committee, nor can they form a parochial committee. These are differences between the Acts for which no reason is apparent. The formation of local committees *with legal powers* would be of great utility in the way pointed out in the preceding chapter under this head with reference to parochial committees in England.

Powers of guardians as to committees.

By Article 13, however, of the General Order made by the Local Government Board under the Poor Relief Acts for regulating the meet-

[1] An ex-officio guardian is a justice of the peace resident in the union and acting for the county in which he resides. A justice of the peace having the foregoing qualification in any union may be an ex-officio guardian in any other union if possessed of a prescribed property qualification therein.

The number of ex-officio guardians in each union is limited to the number of elected guardians in that union. If the number of justices resident in the union and otherwise qualified is less than the number of elected guardians, the deficiency is supplied by non-resident justices possessing the property qualification referred to ; and when the number of resident justices having the requisite qualification exceeds the number of elected guardians, the most highly-rated are entitled to a preference. The same rule applies also to non-resident justices when they are about to be placed on the list of ex-officio guardians.

ings and proceedings of boards of guardians, it is provided that the guardians may from time to time appoint a committee to consider and report on any subject or matter referred to them, but no act or decision of the committee may be deemed to be the act of the board of guardians unless it be reported to and adopted by the board. This regulation will apply to the proceedings of guardians in their capacity as rural sanitary authority unless in matters controlled by express provisions of the Public Health Act.

IV. ACQUISITION OF URBAN POWERS BY RURAL SANITARY AUTHORITIES

Rural sanitary authorities cannot in Ireland be invested with urban powers.

No power is given to the Local Government Board to invest rural sanitary authorities in Ireland with urban powers. This is an unfortunate omission from the Irish Act.

Such power is perhaps more required in Ireland than in England, as there are some large towns, such as Antrim, Arklow, Bantry, Castlebar, Downpatrick, Dungannon, Kenmare, Longford, Mallow, Maryborough, Nenagh, Omagh, Portarlington, Portrush, Roscommon, Skibbereen, Strabane, Tipperary, Tuam, Westport, &c., which are under the sanitary jurisdiction of the respective rural sanitary authorities. These rural authorities might in many cases be beneficially invested with urban powers in respect of the adoption of the Baths and Wash-houses Act, the drainage of new houses, paving of private streets, street improvements, provision of public necessaries, scavenging and cleansing, removal of manure, fire appliances, lighting of streets, slaughter-houses, offensive trades, power to make private improvement rates, bye-laws as to conveyance of fæcal matter, cleansing of courts, and means of ingress to and egress from places of public resort. If such vesting power be at any future time given it would be well if it were made to apply to all sanitary Acts and not to the Public Health (Ireland) Act alone.

Exception in case of lapsed urban district (47 & 48 Vict., c. 77, s. 2, (6)).

Where, however, the sanitary authority of an urban sanitary district are dissolved, or for any cause cease to exist, and the lapsed urban district becomes part of the rural sanitary district in which it is situated, the Local Government Board may by order declare any provisions of the Public Health Act applicable to urban districts to be in force in that part of the rural district which consists of the lapsed urban district, and may invest the rural authority with respect to the lapsed urban district with all or any of the powers, duties, capacities, liabilities, and obligations of an urban sanitary authority under the Public Health Act, including all the powers of making and levying any rate which the urban authority of the lapsed urban district might have made and levied—such rate being chargeable on the same property, subject to the same exemption and condition, and payable by the same persons as if it were a rate made and levied by the urban authority of the lapsed urban district. The Local Government Board may also invest the rural authority, so far as relates to the urban district, with all the powers of or relating to lighting conferred by the Public Health Act.

V. ALTERATION OF URBAN AND RURAL SANITARY DISTRICTS

Procedure for altering sanitary districts (Public Health [Ireland] Act, 1878, Sec. 7).

The Local Government Board may by provisional order separate from a rural sanitary district any municipal town or district wholly situated therein, whether the population be more or less than 6,000,

and constitute it an urban sanitary district [1] or include any such town or district in an adjoining urban sanitary district. The Local Government Board may also by provisional order add any town or township, constituted under the Public Health Act an urban sanitary district, to the rural sanitary district in which it is situated. No such provisional order may be made except on petition from one or other of the towns, townships, or districts affected by the order, nor, in the event of any objection by any person affected thereby, until after due local inquiry. The provisional order is of no force unless and until it is confirmed by Parliament.

The boundaries of towns under the 'Lighting of Towns (Ireland) Act, 1828,' may be altered by the commissioners from time to time, those of towns under the Towns Improvement Act, 1854, by the commissioners with the consent of the Local Government Board, and in such cases the urban sanitary districts are changed concurrently. The boundaries of a municipal borough cannot be altered save by Act of Parliament, and new boroughs may be created only by a charter from the Queen on the advice of the Privy Council. Such new borough must have a population, according to the last census for the time being, of more than 3,000, and the petition for a charter must be signed by a majority of the inhabitants who are rated to the relief of the poor, including a majority of the inhabitants qualified to be burgesses. Sec. 214, (3).

[1] The town commissioners of many towns under the Towns Improvement (Ireland) Act, 1854, which were not qualified for being urban districts by reason of not having a population of 6,000 in 1871, have thus become urban authorities. Many other such towns, some having a population of several thousands, would, there can be no doubt, seek to avail themselves of the provisions of this section but for the existing incidence of taxation, as in a *rural* district all sanitary rates are paid half by the tenant and half by the landlord, whereas in an *urban* district such rates are borne wholly by the occupier.

PART II

URBAN AND RURAL POWERS AND DUTIES OF SANITARY AUTHORITIES

I. SEWERAGE

Provisions as to sewerage and drainage of houses (Sec. 15, *et seq.*).

The provisions of the Irish Public Health Act relating to public sewers and the drainage of houses are almost identical with the provisions of the English Act, and the observations under this head in the preceding chapter will apply generally in the case of Ireland.

Road authorities in Ireland.

The road authorities in Ireland, not being sanitary authorities, are the respective grand juries of counties and of certain counties of cities and towns, to whom, therefore, the saving provision in the definition of 'sewer' applies. Urban authorities are not *ipso facto* road authorities, and only become so by virtue of a local Act or by the operation of a provisional order of the Local Government Board, when confirmed by Parliament, made under section 206 of the Public Health Act, 1878, by which the powers of the grand jury over roads may be transferred to an urban authority.

Duty of sanitary authority to provide for drainage of their district.

The Local Government Board for Ireland have powers similar to, but not identical with, those possessed by the English Board for enforcing the duty of providing sufficient sewers and maintaining existing sewers. The procedure is, however, not quite the same; for, although in the case of an urban authority making default the Local Government Board may proceed to enforce their order by writ of mandamus, in the case of a rural sanitary authority in Ireland the remedial course for the Board to take is not by mandamus, but by dissolving the board of guardians and appointing vice-guardians in their place.[1] Neither, in the case of an urban nor of a rural sanitary authority making such default, have the Local Government Board for Ireland any power to appoint some person to carry out the duty and perform the necessary work.

Proceedings in case of default of sanitary authority (Sec. 211).

The powers given by section 16 of the English Act of taking sewers through lands, &c., are also given by section 18 of the Irish Act, but the report of the surveyor is not required by the latter statute.

The provisions in the English Act respecting sewers in mining districts do not apply in Ireland, and no enactment exists in Ireland corresponding to the Public Health Act, 1875 (Support of Sewers), Amendment Act, 1883, referred to in the preceding chapter.

Map of sewers (Sec. 22).

With regard to a map exhibiting the system of sewerage in a sanitary district, the providing of such map is in Ireland obligatory on urban sanitary authorities, and optional with rural authorities.

[1] This appears to operate hardly on the representatives of the board of guardians of an urban district included in the union who have no voting power in rural sanitary matters.

There is no clause in the Irish Act exempting churches, chapels, or places appropriated to public religious worship from the operation of the section empowering an urban sanitary authority to charge the expenses of improving private streets to the frontagers.[1] The limiting words in section 150 of the English Act, 'not a highway repairable by the inhabitants at large,' are replaced in the Irish statute by the words, 'not in charge of the sanitary authority, or of any grand jury, or other public body.' The estimate of the probable cost of structural works to be executed under the section may in Ireland be made not only by the surveyor, but by any 'other duly appointed officer.' Sec. 28.

II. SEWAGE DISPOSAL

The provisions of the Irish and English Acts in respect of sewage disposal are identical. The Rivers Pollution Prevention Acts, 1876 and 1893, extend also to Ireland, the only question that might possibly arise in their application to that country being whether the definition of sanitary authority contained in the Act of 1876 can be held to include sanitary authorities constituted by the Public Health (Ireland) Act, 1878. Disposal of sewage (Sec. 30, *et seq.*).

(I. AND II.) COST OF WORKS OF SEWERAGE AND SEWAGE DISPOSAL AND OTHER PUBLIC SANITARY WORKS.

Sanitary authorities possess under the Irish Act powers similar to those given by the English Act of mortgaging their rates for the purpose of enabling them by means of loans to carry out permanent works for sewerage and other sanitary purposes, subject to the sanction of the Local Government Board for Ireland, and to the condition that the money borrowed shall be repaid by equal annual instalments of principal or of principal and interest, or by means of a sinking fund within such period not exceeding sixty years, as the sanitary authority, with the consent of that Board, may in each case determine. The Local Government Board, in determining the time for which the money may be borrowed, have regard to the probable duration and utility of the works, and the following terms, as a general rule, are not exceeded :— Loans for sewerage works, &c. (Sec. 237, *et seq.*).

Terms of sanitary loans.

For the acquisition of land in fee for any purpose and for the construction of large waterworks	50 years.
„ first-class buildings of importance	40 „
„ sewerage works and small waterworks	30 „
„ street paving (setts) and small buildings	20 „
„ wood paving, carts, and plant	10 „
„ concrete footways	7 „
„ new roads (macadamised) and horses	5 „

The sanction of the Local Government Board should be obtained and the loan secured before the works are commenced.

Treasury loans.

The Commissioners of Public Works in Ireland, acting with the consent of the Treasury, take the place of the Public Works Loan Commissioners in England in respect of government loans for sanitary works in Ireland, and the present rates for such loans are :—

Where the loan is repayable in a time not exceeding 35 years	3½ per cent.
„ „ „ „ „ „ 40 „	3¾ „
„ „ „ „ „ „ 50 „	4 „

[1] There is no apparent reason for the omission.

The term for repayment of a loan made by the Government is limited to fifty years, but money is not advanced by the Commissioners of Public Works in Ireland at a reduced rate of interest on a recommendation of the Local Government Board, as is the case in England.

Incidence of taxation to meet loan charges.

With regard to the incidence of the charge for sanitary works in *urban* districts there is no great difference *mutatis mutandis* in Ireland from the law in England, beyond that the urban district cannot in Ireland be divided into parts for all or any of the purposes of the Public Health Act (except in the case of burial-grounds under section 234); but in respect of expenses incurred by a rural sanitary authority for purposes of the Public Health Act, there is a great difference, and one of a nature not at all conducive to the extended and beneficial application of the Irish Act. Under the Act of 1875 agricultural lands, market gardens, &c., situated in the contributory area for sanitary improvement in a *rural* district in England have only to pay *one-fourth* of the rate assessable on houses, whereas in Ireland the rate is the same on each of such properties. This operates unfortunately in many instances in developing opposition to sanitary improvements on the part of occupiers of farms within the area of charge for such improvements in towns which are not urban districts. It is not always practicable that the cost can be borne altogether by the inhabitants of the town proper, or built-on area, and a more extended area of charge is necessary if the works are to be carried out at all. Such an extension of the area of charge is not in itself unfair if kept within reasonable limits, but it makes a considerable difference when the occupiers of land living outside the town, who are to be assessed for the improvements, are to pay *full* in place of *one-fourth* rates. No revenue being, as a rule, derived from sewage, the entire charges of the construction and of the maintenance of sewers fall on the rates.

Contributory places (Sec. 232).

The definition of a contributory place in the Irish Public Health Act is different from that contained in the English Act. It may be—

1. The dispensary district.
2. The electoral division.
3. The townland.
4. Such portions of any townland or townlands as may be determined by the Local Government Board.

The power here given of sub-dividing a townland in forming a contributory place is of importance. Previous to the Act of 1878, for the purpose of assessing a charge for sanitary improvement if *part* of a townland was affected the *whole* should be made liable to the expense, and this state of the law bore hardly on many who derived no benefit whatever from the works, and in many cases it prevented the initiation of improvements.

There are no 'special drainage districts' in Ireland.

Area of charge for 'special expenses' of a rural sanitary authority (Sec. 232).

The place of the 'special drainage district' in England is taken in Ireland by the 'area of charge,' consisting of a contributory place or a number of contributory places benefiting by proposed sanitary improvements. The 'area of charge' is proposed by the rural sanitary authority, and with or without modification approved of and 'fixed' by the Local Government Board by an order under seal. After an area of charge is so fixed for any sanitary works the rural sanitary authority, if they think fit, can apportion the expense of the works and of maintaining the same in such proportions as it thinks just

between the contributory places deriving a common benefit from the works. Such apportionment when made is subject to appeal by ten or more ratepayers, or any number of persons rated to one-fifth part of the whole rate, by memorial to the Local Government Board, whose decision is final.

An area of charge differs from a special drainage district, inasmuch as it may be, and usually is, fixed for one particular work, and the same area need not be adopted for the expenses of another sanitary work for the same place: for example, a rural town may have a different area of charge for its sewerage works from the area on which the expenses of its water supply is to be charged.

III. DRAINAGE OF HOUSES

Drainage of houses (Sec. 25 *et seq.*).

In Ireland sanitary authorities are empowered to enforce the drainage of undrained houses, but it is not mandatory on them, as it is in England, to do so. Sanitary authorities may also require drains and cesspools to be ventilated as may appear to them to be necessary. In case the sanitary authority have, owing to the default of the owner or occupier, themselves to execute the necessary works, the expenses may be recovered in a summary manner from the owner, or in the case of an urban sanitary authority the expenses may be declared to be 'private improvement expenses,' and the repayment may be spread over a term of not more than thirty years. Rural sanitary authorities have no power, nor can they in Ireland be invested with power, to declare expenses to be 'private improvement expenses' and to recover them. It is to be observed, however, that where, in the opinion of the sanitary authority, greater expense would be incurred in the construction of a cesspool than in the making of a drain emptying into a sewer which they are entitled to use, the sanitary authority may require the owner or occupier to make such drain, notwithstanding that the sewer into which it is to empty is not within one hundred feet of the site of the house. The enactment as to drainage in the cases of houses newly built or rebuilt (section 25 of the Public Health Act, 1875) cannot in Ireland be enforced in any way by a rural sanitary authority; but a rural authority can make bye-laws with respect to the drainage of buildings—a provision which to some extent covers the same ground. In Ireland an urban sanitary authority may require covered drains to be constructed 'in such manner,' as well as at such level and with such fall, as may appear to the urban authority to be necessary. The cesspools into which the drains are to empty, if there is no public sewer within one hundred feet of the house, is by the English Act to be a 'covered cesspool,' and by the Irish Act a 'properly constructed cesspool.' The following words are also added in the Irish Act: 'provided always that the sanitary authority may, at the request of the owner of the house, permit such drain or drains to be disconnected from the interior of the house in such manner as it may think proper.' It is to be noted that the power to make building bye-laws is in Ireland given to rural as well as urban sanitary authorities without requiring, as in England, an order by the Local Government Board for the purpose.

Building bye-laws (Sec. 41).

The application of section 23 of the Public Health Acts Amendment Act, 1890, when Part III. of that Act has been adopted by a rural sanitary authority in Ireland, is somewhat involved owing to the

fact (*a*) that no power is given to the Local Government Board for Ireland to make an order investing a rural authority with urban powers; and (*b*) that sections 41 and 42 of the Irish Public Health Act of 1878 apply to rural as well as urban authorities, therein differing from the corresponding sections 157 and 158 of the English Act of 1875, which apply only to urban authorities. It is probable that a rural sanitary authority in Ireland would be held to take, under section 23 of the Act of 1890 above referred to, all the powers which it would have if invested with urban powers for the purpose.

Special 'model' bye-laws not required in Ireland.

The Local Government Board for Ireland have not issued any model bye-laws specially applicable to Ireland, inasmuch as those mentioned in the preceding chapter apply fully as a guide for sanitary authorities in that country; the provisions, however, of section 41 of the Irish Act are in a slight degree more extended than those of the corresponding section (157) of the English Act, as bye-laws may be made preventing the opening of new streets for public use until the bye-laws respecting them have been complied with. They may relate to the structure of all parts of new buildings, and not only to the walls, foundation, roof, and chimneys thereof, and may also relate to the description and quality of substances used in their construction. Definitions of the expressions 'foundations' and 'site' are in addition given in the Irish Act.[1]

Section 160 of the English Act incorporates sections 64–83 of the Towns Improvement Clauses Act, 1847,

(*a*) With respect to the naming of streets and numbering of houses;
(*b*) With respect to improving the line of the streets and removing the obstructions;
(*c*) With respect to ruinous and dangerous buildings; and
(*d*) With respect to precautions during the construction and repair of the sewers, streets, and houses, for the purpose of regulating such matters in urban districts.

In the Irish Public Health Act there is no similar incorporating clause; but these clauses of the Act of 1847 are incorporated with the Towns Improvement (Ireland) Act, 1854, and therefore apply in all urban sanitary districts in which that Act is in force.

IV. WATER SUPPLY

Supply of water to sanitary districts (Sec. 61 *et seq.*).

The difficulty referred to in the preceding chapter as to provisional orders for the compulsory acquisition of water in England appears to have led to the introduction of additions in the Irish Act by which a sanitary authority can acquire the right to abstract water from a running stream or other source otherwise than by agreement.

Compulsory powers to acquire water-rights for certain purposes (Secs. 202 and 203).

By section 202 of the Public Health (Ireland) Act, 1878, every sanitary authority is empowered, for the purpose of supplying their district with water for drinking and domestic purposes, to purchase any land covered with water, or any water, or right to take or convey water. The properties so described—lands covered with water, 'water,' water rights—are declared by section 203 to be included under the term 'lands,' and, therefore, in Ireland the procedure by provisional order for the acquisition of compulsory powers of purchase of 'lands' for the purposes of the Act applies to the acquisition of water, but it is to be noted that this power can only be enforced in respect of a supply of water for drinking and domestic purposes. As to what

[1] See note, page 363.

these purposes are there are no special definitions; a supply of water for drinking is included in a supply for domestic purposes, but the expression may also refer to public fountains, and the supply of ships lying in harbour. What are domestic purposes can only be inferred from section 12 of the Waterworks Clauses Act, 1863, which defines what are *not* domestic purposes, namely, 'a supply of water for cattle or for horses, or for washing carriages, where such horses or carriages are kept for sale or hire, or by a common carrier, or for a supply for any trade, manufacture, or business, or for watering gardens, or for fountains, or for any ornamental purposes.' It would follow that, in the absence of a provision in a local Act containing further restrictions, all other ordinary purposes for which water is used by a householder within his premises are 'domestic purposes.' 10 Vict., c. 17.

It would appear that section 286 of the Irish Act (which is identical with section 332 of the English Act) applies to any case in which a sanitary authority might interfere with water rights under the powers as conferred by the Public Health Act itself; but the confirmation by Act of Parliament of a provisional order conferring powers of compulsory purchase of water or water rights (the making of which order is within the purview of the Public Health Act) takes the matter out of the category of authorisations under the Public Health Act, and gives legislative sanction to the powers so conferred.

Saving for existing water companies.

The saving clause for water companies (section 62 of the Irish Act, corresponding to section 52 of the English Act) has not proved, as it apparently has in England, a bar to the supply of water by a sanitary authority in an area over which a water company has powers, and objects to the new and additional supply. Such cases as have arisen in Ireland have resulted in amicable arrangements and in the purchase of the water companies' works and interest by the sanitary authorities.

With regard to observations in the preceding chapter as to the incorporation of the Waterworks Clauses Act, 1847, it may be remarked that in Ireland no rural sanitary authorities have or can have the control of streets or roads in their districts. In many instances the urban sanitary authority are not the road authority, and in such cases and in *all* rural sanitary districts the roads and streets are under the control of the respective grand juries.

The Limited Owners Reservoirs and Water Supply Further Facilities Act, 1877, applies also to Ireland.

Water rates and water rents (Public Health (Ireland) Act, 1878, Sec. 66).

With regard to water rates, section 66 of the Irish Act confers powers similar to those of section 56 of the English Act. It provides that the rates are to be 'made, assessed, and levied in like manner in every respect as the rate out of which the expenses incurred by such authority in the execution of this Act are defrayed,' and with regard to the recovery of water *rents*, or moneys payable under agreements, it enables the sanitary authority to recover them in a summary manner.

The striking of such water rates is entirely optional with the sanitary authority, the power given in England to a certain number of ratepayers to require the sanitary authority to strike a rate not being extended to Ireland.

Such water rates in Ireland cannot be levied in respect of public standpipes or street fountains.

It would appear to be only fair and reasonable that persons taking

a supply from the public mains into their houses should be made to pay more in proportion than those who have to resort to the street fountains, and an amendment in the law on the lines of the Public Health (Water) Act, 1878, would be desirable. All sanitary authorities have in Ireland as well as in England power to require any house to be supplied with water if it is without a proper supply and if such supply can be given, 'at such cost as the Local Government Board may in the application of the sanitary authority determine under all the circumstances of the case to be reasonable.' There is here no limit of cost prescribed.

Enforced supply of water to houses (Sec. 72).

If the owner, when required by the sanitary authority, does not execute the necessary works, the sanitary authority may do them and recover the cost in a summary manner, or, if it be an *urban* sanitary authority, the cost may be declared to be private improvement expenses. As pointed out before, a *rural* sanitary authority in Ireland cannot recover any expenses declared to be private improvement expenses.

Under the Irish Act the Local Government Board would have to make a separate order fixing the reasonable cost in each case submitted by a sanitary authority under this section. There being no Act similar to the Public Health (Water) Act, 1878, in force in Ireland, the remarks on pages 39–44 *ante*, relative to that Act, do not apply to Ireland.

With the exceptions above stated the observations in the preceding chapter on the English law as to water supply are equally applicable to Ireland.

V. PRIVIES, WATER-CLOSETS, ETC.

Sanitary conveniences (Sec. 44 *et seq.*).

The provisions in the Irish Act relating to privies, water-closets, etc., are almost the same as those in the English Act. There are some minor differences, such as where the words 'a properly constructed ash-pit,' in section 45 of the Irish Act, replaces the words 'an ash-pit furnished with proper doors and coverings' in section 36 of the English Act; and in section 50 (corresponding to section 40 of the English Act) 'sinks, lavatories, gully-traps' are also provided for, and the drains, privies, etc., in addition to being constructed and kept so as not to be a nuisance or injurious to health, as in the English Act, are required to be 'trapped, covered, and ventilated.'

In Ireland the sanitary authority are empowered to enforce the provisions of privy accommodation for houses, without depending for their jurisdiction on a report to be made to them by their surveyor or inspector of nuisances, as is the case in England. With respect to the means of removing house refuse a clause has been introduced into the Irish Act (section 47) enacting that when on the representation of the sanitary authority of any district it shall appear to the satisfaction of the Local Government Board that in such district, or in any part thereof to be defined by the Local Government Board, a system has been established, and is effectually carried out, by which house refuse and fæcal matter are removed at short and regular intervals, and in such a manner as not to be a nuisance or injurious to health, or that no avoidable nuisance injurious to health or offensive to public decency exists in such district or part of such district, the Board may by order declare that the enactments with respect to water-closets contained in the Public Health Act shall, so far as regards such district, or part of a district, be deemed to be satisfied; and such enactments shall, while such order remains in force, and to the extent and subject to any

conditions therein prescribed, be deemed to be satisfied accordingly. Every such order may from time to time be varied or revoked by the Local Government Board.

If on complaint of a nuisance arising from a drain, water-closet, earth-closet, privy, ash-pit, or cesspool, made by any person to the sanitary authority, it is found that the drain, etc., is in proper condition, the person making the complaint, and not the sanitary authority, is the person, according to the Irish Act, by whom any expenses incurred are to be defrayed. If the drain is found to be in a bad condition, and the sanitary authority are compelled to carry out the work, the sanitary authority may recover under the Irish Act from the owner not only the expenses incurred in so doing, but also the expenses incurred in the previous examination.

The English model bye-laws as to privies and ash-pits are *mutatis mutandis* fully applicable to Ireland.

VI. SCAVENGING AND CLEANSING

Scavenging (Sec. 52 *et seq.*).

Section 52 of the Irish Public Health Act (same as section 42 of the English Act of 1875) provides that every urban authority and any rural authority invested by the Local Government Board with the requisite powers may, and when required by order of the Board shall, themselves undertake or contract for the proper cleansing of streets, and may also themselves undertake or contract for the proper watering of the streets for the whole or any part of their district. This provision is, however, rendered inoperative as regards rural sanitary authorities in Ireland by the fact that there is no section in the Irish Act corresponding to section 276 of the English Act, empowering the Local Government Board to invest a rural sanitary authority with all or any of the powers, rights, and duties of an urban authority.

Nuisance bye-laws (Sec. 54).

Power is given to the Local Government Board for Ireland by section 54 of the Irish Act (corresponding to section 44 of the English Act) to 'require' bye-laws to be made by an urban authority for the prevention of nuisances arising from snow, filth, dust, ashes, and rubbish, etc., and such bye-laws in Ireland may 'regulate' as well as prevent the keeping of animals on any premises.

Receptacles for rubbish (Sec. 55).

The power to provide receptacles for the deposit of rubbish, which in England is permissive and confined to urban sanitary authorities, is in Ireland imperative and entrusted also to rural sanitary authorities; and the section in the Irish Act giving this power contains the following proviso, which is not found in the English Act: 'provided that no nuisance is created by the exercise of any of the powers given by this section.' A similar extension of powers to rural sanitary authorities in Ireland applies also in the case of penalties for keeping swine in dwelling-houses, for allowing waste or stagnant water to remain, and for allowing overflow or soakage from cesspools (section 57). The expenses incurred by a sanitary authority in Ireland in abating these nuisances may be recovered in a summary manner in the case of houses let to weekly or monthly tenants, or in separate apartments, from the owner. The importance of such extensions of powers to all rural sanitary authorities, without any intervention on the part of the Local Government Board being necessary, will be apparent on referring to the description of towns, under their charge, which will be found at page 346.

53 & 54 Vict., c. 59.

With regard to section 26 of the Public Health Acts Amendment Act, 1890, empowering urban sanitary authorities of districts in which Part III. of that Act is in force to make bye-laws as to the carting of offensive matters, it would have been well if that power had been extended by statute to rural sanitary authorities in Ireland, as urban powers cannot be given to them by an order of the Local Government Board. The same remarks apply in the case of the provisions of section 27 of the same Act as to the keeping of common courts and passages clean.

No portion of the Towns Police Clauses Act, 1847, is incorporated with the Irish Public Health Act, and that enactment is incorporated with but few of the local Acts in force in certain urban districts in Ireland. Consequently section 28 of the Act of 1847, imposing a penalty of forty shillings on persons keeping a pigstye in front of any street, or in or near any street, so as to be a common nuisance, will not apply generally to urban sanitary districts in Ireland.

In other respects the provisions as to scavenging and cleansing in the English and Irish Acts are similar.

VII. NUISANCES

Nuisance prevention (Public Health (Ireland) Act, 1878, Sec. 107 *et seq.*).

Fencing of abandoned mine-shafts (50 & 51 Vict., c. 88, ss. 37, 74).

These provisions are almost if not quite identical in the Public Health Acts for England and Ireland. The Quarry (Fencing) Act, 1887, does not apply to Ireland, but the Coal Mines Regulation Act of the same year does apply. The duty of the sanitary authority to inspect their district for the detection of nuisances is imposed by the Irish as well as by the English Act, but the appointment of inspectors of nuisances is not required in Ireland. All sanitary authorities, whether urban or rural, are, however, bound to appoint such sanitary officers as the Local Government Board in each case direct.

There is no section in the Irish Public Health Act corresponding to section 313 of the Public Health Act, 1875, which provides that if in any Act, or order made by a Secretary of State or by the Local Government Board, or in any document then in force, 'any provisions of any of the sanitary Acts which are repealed by this Act are mentioned or referred to, such Act, order, or document, shall be read as if the provisions of this Act applicable to purposes the same as, or similar to, those of the repealed provisions were therein mentioned or referred to instead of such repealed provisions and were substituted for the same.' There is in consequence a difficulty in applying to sanitary authorities under the Public Health (Ireland) Act, 1878, certain of the provisions of the Factories (Steam Whistles) Act, 1872; the Metalliferous Mines Regulation Act, 1872; the Explosives Act, 1875; and the Rivers Pollution Prevention Act, 1876, in which powers are given to sanitary authorities.

VIII. HOUSING OF THE POOR

48 & 49 Vict., c. 72.

Section 7 of the Housing of the Working Classes Act, 1885, which declares it to be the duty of the sanitary authorities to put in force the powers vested in them, so as to secure the proper sanitary condition of all premises within the area under their control, applies to Ireland as well as to England.

(a) *Cellar Dwellings*

Prohibition of cellar dwellings under the Public Health (Ireland) Act, 1878.

Section 82 of the Irish Act, which is similar to section 71 of the English Act, provides that it shall not be lawful to let or occupy, or suffer to be occupied, separately as a dwelling, any cellar (including for the purposes of the Act in that expression any vault or underground room) built or rebuilt after the passing of the Act (August 8, 1878), or which was not lawfully so let or occupied at the time of the passing of the Act. No cellar could be lawfully let or occupied at the time of the passing of the Public Health (Ireland) Act, 1878, unless it was let or occupied as a dwelling before August 7, 1866, the date of the passing of the Sanitary Act of 1866, which applied to Ireland the provisions of the Public Health Act of 1848, relating to cellar dwellings, except where such dwellings were then regulated by any other Act of Parliament. The provisions of the English and Irish Public Health Acts under this heading are identical.

(b) *Common Lodging-houses*

Definition.

The expression 'common lodging-house' is defined by section 2 of the Irish Public Health Act to mean a house in which, or in any part of which, persons are harboured or lodged for hire for a single night, or for less than a week at a time. There is no definition of the term in the English Act of 1875.

Registration (Sec. 87).

In Ireland the register of common lodging-houses is at all reasonable times to be open to the inspection of any ratepayer of the district.

(Sec. 90).

Notice of registration must be affixed to the outside of every common lodging-house, whether the keeper is required in writing by the sanitary authority to do so or not.

(Sec. 92).

The provision empowering a sanitary authority to remove a lodging-house from the register until the notice given by them requiring the owner or keeper of the house to obtain a proper supply of water has been complied with, is mandatory in Ireland, and not merely permissive as in England.

Limewashing (Sec. 93).

If the keeper of a common lodging-house fails to limewash the walls in the first week of April and October in each year, the work may be executed by the sanitary authority and the cost recovered in a summary manner.

Keeper to give notice of fever, &c. (Sec. 95).

The notice to be given by the keeper of a common lodging-house of fever or any infectious disease therein may in Ireland be given to any officer of the sanitary authority, and not to the medical officer of health only, as well as to the poor-law relieving officer.

Bye-laws.

The model bye-laws, issued by the Local Government Board for use in England, will also apply with the necessary modifications to Ireland.

(c) *Lodging-houses other than Common Lodging-houses*

Bye-laws as to houses let in lodgings (Sec. 100).

The law in England and Ireland is the same in regard to houses let in lodgings, except that it is somewhat doubtful whether in Ireland the sanitary authority can make bye-laws respecting such houses without a declaration by the Local Government Board that section 100 of the Irish Act, empowering such bye-laws to be made (corresponding to section 90 of the English Act) is in force in the district.

Section 8 of the Housing of the Working Classes Act, 1885, enabled the sanitary authorities in England to make these bye-laws without any declaration by the Local Government Board, and section 15 of

the same Act applied the provisions of section 8 to Ireland. The Housing of the Working Classes Act, 1890, repealed the Act of 1885, with the exception of a few sections, which include section 8 but do not include section 15, so that it is now a matter of doubt whether section 8 is operative in Ireland.

(*d*) *Seamen's Lodging-houses*

Bye-laws for seamen's lodging-houses (46 & 47 Vict., c. 41).

The provisions are the same in the case of Ireland as of England.

(*e*) *Exemption of Artisans' Dwellings from the Inhabited House Duty*

There is no inhabited house duty leviable in Ireland.

(*f*) 1. *The Housing of the Working Classes Act*, 1890

Housing of the Working Classes Act, 1890 (53 & 54 Vict., c. 70).

Part I. Unhealthy Areas

Unhealthy areas.

The provisions of Part I. of the Act are the same for Ireland as for England.

Part II. Unhealthy Dwelling-Houses

Unhealthy or obstructive houses.

The provisions of Part II. are likewise the same for Ireland as for England, with the exception that section 52 of the Act as to a representation to the county council from the medical officer of health of a county does not apply in Ireland; neither does section 45, giving power to the county council to act in default of the rural sanitary authority. In the cases of schemes for reconstruction under this part of the Act, notice of the order of the Local Government Board for Ireland sanctioning the scheme must be published in the *Dublin Gazette*.

Part III. Working-Class Lodging-Houses

Lodging-houses for the working classes.

In Ireland rural sanitary authorities cannot adopt and use this part of the Act. The reason of such exclusion no doubt is that by the Labourers (Ireland) Acts, 1883–92, special facilities are given for the erection of houses for agricultural labourers by any rural sanitary authority.

Operation of this part of the Act in rural districts confined to municipal towns.

This part of the Act can, however, be put in operation in some *portions* of rural sanitary districts, namely, in the case of those towns having town commissioners but which are not urban sanitary districts. Though the power of adopting Part III. of the Act was given to such town commissioners, no borrowing power for the purpose of carrying out the Act was provided in their case, and this omission was not rectified until the passing of the Housing of the Working Classes Act Amendment Act, 1893, which gives the Commissioners of Public Works in Ireland power to lend, and such town commissioners power to borrow for the purposes of Part III. of the Act of 1890.

The operation of the third part of the Act as regards *urban* sanitary authorities is practically the same in England and in Ireland.

Appropriation of municipal property.

The consent of the Treasury, instead of the consent of the Local Government Board for Ireland, is required to the appropriation by an Irish urban sanitary authority of any lodging-house purchased or taken

on lease, and, for the purposes of this part of the Act, of any other land at their disposal.

The consent of the Treasury is also required to the sale and exchange of lands and to the sale of lodging-houses when the latter are considered too expensive.

Loans for carrying out Part III. of the Act.

The Commissioners of Public Works in Ireland, acting with the consent of the Treasury, may advance money for the purposes of the Act, and favourable terms have been laid down by the Treasury for such loans, namely:—

$3\frac{1}{8}$ per cent. per annum on loans for 20 years.
$3\frac{1}{4}$ „ „ „ „ „ 30 „
$3\frac{3}{8}$ „ „ „ „ „ 40 „

And in the case of a loan to a local authority,

$3\frac{1}{2}$ per cent. per annum on loans for 50 years.

The provisions both of the Acts which have been consolidated, or repealed and re-enacted by the Act of 1890, and the Act of 1890 itself since it became law, have been put in force in many cases in Ireland.

Urban authorities that have cleared 'unhealthy areas' under Part I.

The clearing of unhealthy areas (Part I.) has been put in operation in the urban sanitary districts of Belfast, Cork, and Dublin.

Municipal authorities that have erected working-class dwelling-houses, under Part III.

Schemes for the erection of dwellings for the working classes (Part III.) have been undertaken in the present urban sanitary districts of Cork, Dublin, Dungarvan, Enniskillen, Kilkenny, Killiney and Ballybrack, Kinsale, Limerick, Pembroke, Sligo, Trim, Waterford, and Wexford; and for the towns of Callan, Cavan, Mullingar, and New Ross, which are not urban districts.

(*f*) 2. *Labourers* (*Ireland*) *Acts*, 1883–1892

Labourers (Ireland) Acts, 1883–92.

Definition of 'agricultural labourer' (49 & 50 Vict., c. 59, s. 4).

The expressed object of the Labourers (Ireland) Acts was to improve the condition of agricultural labourers in Ireland by providing for them suitable dwellings and garden allotments. The expression 'agricultural labourer,' for the purposes of these Acts, is defined to mean 'a man or woman who does agricultural work for hire at any season of the year on the land of some other person or persons, and includes hand-loom weavers and fishermen doing agricultural work as aforesaid, and also herdsmen.'

These Acts apply to rural sanitary districts only, and so far as is consistent with the scope and tenor thereof, are to be construed as one with the Public Health (Ireland) Act, 1878. The following is a summary of the most important provisions of each of the Acts:—

Act of 1883

The Labourers (Ireland) Act, 1883 (46 & 47 Vict., c. 60).

Under this Act *any twelve persons rated for the relief of the poor*[1] can represent to the rural sanitary authority that in the portion of the sanitary district in which they resided (1) the existing house accommodation for agricultural labourers and their families is deficient having regard to the ordinary requirements of the district, or (2) that existing dwellings of the labourers are unfit for human

[1] Extended by the Act of 1891 (p. 362) to include any twelve persons provided that if not rated they are agricultural labourers and are at the date of the application employed in the district.

habitation. If the sanitary authority are satisfied of the truth of the representation, and of the sufficiency of its resources, they are to make what is termed an 'Improvement Scheme' for the erection of *new* dwellings,[1] with garden allotments thereto *not exceeding half a statute acre*[2] in each case. They can propose to *purchase*[3] the lands required either by agreement with the persons interested therein, or in pursuance of the compulsory powers of the Lands Clauses Acts. The area of charge for the expenses of the scheme proposed by the local authority was under the Act subject to the approval of the Local Government Board,[4] and in no case can a higher rate than *one shilling in the pound* be imposed in any one year for the purposes of the Act. After compliance with certain preliminaries, such as publication of advertisements, service of notices on owners and occupiers of lands, etc., the scheme is submitted for the approval of the Local Government Board. A local inquiry is then held by one of the inspectors of the Board for the purpose of (in the words of section 7 of the Act) 'ascertaining the correctness of the representation, the deficiency of houses for agricultural labourers and their sanitary defects, and the sufficiency of the scheme, and any local objections to be made to such scheme, and as to the propriety of confirming such scheme.' The Board, on consideration of their Inspector's report, may refuse to confirm the scheme, or may make a provisional order confirming the whole or portion of the scheme with such modifications or alterations as they think fit, provided that no addition is made to the lands proposed by the scheme to be taken compulsorily.

If the provisional order authorised the taking of lands compulsorily, it required, by the Act of 1883, to be confirmed by Parliament, and if the order did not authorise the taking of any lands compulsorily, it became absolute, and took effect without being confirmed by an Act of Parliament unless within one month after the making and publication of the order a petition was lodged against it by any three ratepayers within any area of charge declared by the order. This procedure is, however, no longer in force, and has been superseded by that prescribed by the Act of 1885 (see page 361).

When the order becomes absolute, or has been confirmed, the sanitary authority are required to take steps, within a period of two years, for purchasing the lands required and carrying the scheme into execution. Loans for the purpose, on the security of the rates leviable on the area of charge, are obtainable from the Commissioners of Public Works in Ireland with the approval of, and subject to such conditions as to rate of interest and period for repayment as may be agreed to by the Treasury.[5] On completion of the scheme the sanitary authority are to make lettings of the tenements provided by them

[1] See under Act of 1885, paragraph 3 (p. 361) as to power to acquire *existing* houses.

[2] The maximum allotment is increased to a statute acre by the Act of 1892 (p. 362).

[3] See under Act of 1885, paragraph 2 (p. 361), as to power to take lands on lease.

[4] The approval of the Local Government Board is now dispensed with. See under Act of 1885, paragraph 5 (p. 361).

[5] In 1885 the Treasury fixed the following rates of interest, and annuities covering principal and interest, for each 100*l.* advanced:—

For loans repayable within	35	years,	$3\frac{1}{4}$	per cent.,	4*l.* 16*s.* 6*d.*
,, ,, ,,	40	,,	$3\frac{1}{2}$	,, ,,	4*l.* 13*s.* 8*d.*
,, ,, ,,	50	,,	$3\frac{3}{4}$	,, ,,	4*l.* 9*s.* 2*d.*

to agricultural labourers, upon such terms and conditions that the tenancies created by such lettings should be 'cottier tenancies' within the meaning of section 81 of the Landlord and Tenant Law Amendment Act (Ireland), 1860.

Act of 1885

The Labourers (Ireland) Act, 1885, 48 & 49 Vict., c. 77.

In 1884 the question of amending the Act was referred to a Select Committee of the House of Commons. The evidence taken, and the recommendations made by the Committee will be found in *Parliamentary Papers* No. 317, of August, 1884, and No. 32 of Session 1884-5 respectively. The outcome of the proceedings was the Act of 1885, which made the following amendments in the previous Act :—

1. Confirmation of provisional orders by Parliament was done away with. An order now becomes absolute if no petition is lodged against it within one month after the making and publication of the order by

(*a*) An owner or occupier of land proposed to be taken compulsorily, or
(*b*) Twelve ratepayers in any area of charge declared by the order to be chargeable with the expenses of the scheme.

If a petition be lodged, the objections to the order would be adjudicated upon by the Lord Lieutenant in Council, who has power to *confirm* or to *disallow* any provisional order, or in case of confirmation to make such amendments as may be deemed necessary. Costs may also be awarded to or against the persons promoting or opposing the scheme.

2. Lands may be taken on lease for a term of years not exceeding ninety-nine years, either by agreement or compulsorily. Limited owners (as defined by the Act) are empowered to grant such leases, the rent, terms, and conditions at and subject to which the plots were to be taken to be settled by agreement, or to be fixed by the Irish Land Commission.

3. *Existing houses can be acquired* (compulsorily if in a bad state of repair, otherwise by agreement) and repaired if necessary, and gardens not exceeding half a statute acre in each case provided therefor.

4. *Tracts of land may be taken by agreement*[1] for the purpose of being parcelled out into allotments for the use of agricultural labourers living in any neighbouring village or town.

5. The fixing of the area of charge for the expenses incurred in carrying out the Acts is vested in the sanitary authority themselves.

6. The sanitary authority are empowered and required to institute proceedings with a view to the closing or demolition of condemned dwellings when they are in a position to supply house accommodation for the occupants.

There are some other minor amendments, the most important being that, with a view to facilitate the working of the Act, the sanitary authority are not restricted to the months of September, October, or November for the publication of the requisite preliminary advertisements, but can publish such notices in any month of the year.

[1] See under Act of 1886, paragraph 4, as to obtaining compulsory powers in such cases.

Act of 1886

The Labourers (Ireland) Act, 1886. 49 & 50 Vict., c. 59.

The provisions of this Act were for the most part intended to remove minor difficulties which had arisen in practice under the previous Acts.

1. The Local Government Board are authorised to prescribe 'forms' to be used in carrying out the Acts.

2. Power is given to the Board to sanction exchanges of plots with the consent of the persons interested.

3. The sanitary authority are empowered to make temporary lettings of the plots to the labourers pending the erection of the cottages.

4. Compulsory powers may be given for the acquisition of tracts of land (as above referred to) or of garden allotments for existing cottages where it can be shown that all reasonable efforts to obtain such lands by agreement had failed.

5. The sanitary authority or their contractors are granted facilities for entering on lands for the purpose of obtaining building materials.

6. Lands intended to be taken compulsorily must adjoin a public road.

7. The Local Government Board are empowered in certain cases to dispense with advertisements and notices.

Act of 1891

The Labourers (Ireland) Act, 1891, 54 & 55 Vict., c. 71.

This Act made an important change in the previous procedure. Hitherto, representations with a view to putting the Acts into force should be made by the ratepayers, but this Act allows a representation to be made by any twelve persons, whether rated for the relief of the poor or not, provided that if not so rated they are agricultural labourers within the meaning of the Acts and are employed in the district at the date of the application. It furthermore gives the parties so signing, in case the sanitary authority decline to act on the representation, the right of appeal to the Local Government Board, who can direct a local inquiry to be held and a report to be made to them with respect to the correctness of the representations made to the sanitary authority. If it appears from the Inspector's report that the representation is correct, the sanitary authority shall, within three months, take steps for carrying an improvement scheme into execution, and in the event of their not taking such steps as the Inspector deems sufficient, he is required to make complaint to the Local Government Board that the sanitary authority have made default in carrying out a scheme. The Local Government Board, if satisfied of the alleged default, may then make an order giving the Inspector authority to exercise all the powers and to perform all the duties of the sanitary authority as provided for by the Labourers Acts.

Act of 1892

The Labourers (Ireland) Act, 1892, 55 & 56 Vict., c. 7.

This measure merely consists of a clause extending the maximum garden allotment from one half to a whole statute acre.

From the twenty-second annual report of the Local Government Board for Ireland it appears that up to March 31, 1894, the Acts had been put in operation in 101 out of 159 rural sanitary districts, and that

12,937 cottages had been authorised, of which 10,352 had been built; the total amount of the loans sanctioned by the Treasury for the purposes of the Acts being 1,421,964*l.*

(*g*) *The Canal Boats Acts*, 1877 *and* 1884

These Acts do not apply to Ireland.

(*h*) *Movable Dwellings other than Canal Boats*

Tents and vans used for human habitation (48 & 49 Vict., c. 72, s. 9).

Section 15 of the Housing of the Working Classes Acts, 1885, which applied to Ireland the provisions contained in sections 9 and 10 of the Act relating to tents, vans, sheds, or similar structures used for human habitation, has been repealed, and it is, therefore, difficult to see how these latter sections can now be put into operation in that country.

(*i*) *Lodging and Accommodation of Hop-Pickers and Fruit-Pickers*

No enactments relating to this subject are in force in Ireland.

IX. BUILDINGS

Building bye-laws (Public Health (Ireland) Act, 1878, Sec. 41).

Section 41 of the Irish Public Health Act, which corresponds to section 157 of the English Act, empowers every sanitary authority—rural as well as urban—to make bye-laws:—

1. With respect to the level, width, and construction of new streets, and the provisions for the sewerage thereof, and the preventing of the opening thereof for public use until such bye-laws have been complied with.

2. With respect to the structure and description and quality of the substances used in the construction of new buildings for securing stability and the prevention of fires, and for purposes of health.

3. With respect to the sites of houses, buildings, and other erections, and the mode in which, and the materials with which, such foundations and sites[1] shall be made, formed, excavated, filled up, prepared, and completed for securing stability, the prevention of fires, and for purposes of health.

4. With respect to the sufficiency of the space about buildings to secure a free circulation of air, and with respect to the ventilation of buildings.

5. With respect to the drainage of buildings, to water-closets, earth-closets, privies, ash-pits, and cesspools in connection with buildings, and to the closing of buildings or parts of buildings unfit for human habitation, and to prohibition of their use for such habitation.

No bye-law made under this section is, however, to affect any building erected before the date of the passing of the Public Health (Ireland) Act (August 8, 1878).

53 & 54 Vict., c. 59.

Section 23 of the Public Health Acts Amendment Act, 1890, enables any urban authority which has adopted Part III. of that Act to make bye-laws with respect to the following matters:—

[1] The term 'foundation' is defined by the Irish Act to mean the space immediately beneath the footings of a wall, and the term 'site' in relation to a house, building, or other erection, to mean the whole space occupied by such house, building, or other erection between the level of the bottom of the foundations and the level of the base of the walls.

The keeping water-closets supplied with sufficient water for flushing;

The structure of floors, hearths, and staircases, and the height of rooms intended to be used for human habitation;

The paving of yards and open spaces in connection with dwelling-houses; and

The provision, in connection with the laying-out of new streets, of secondary means of access, where necessary, for the purpose of the removal of house refuse and other matters.

The section further provides that any such bye-laws, under section 157 of the Public Health Act, 1875, as above extended, with regard to the drainage of buildings, and to water-closets, earth-closets, privies, ash-pits, and cesspools in connection with buildings, and the keeping water-closets supplied with sufficient water for flushing, may be made so as to affect buildings erected before the times mentioned in the said section; and that every sanitary authority may make bye-laws to prevent buildings which have been erected in accordance with bye-laws made under the Public Health Acts from being altered in such a way that if at first so constructed they would have contravened the bye-laws.

Sub-section 3 of the section enacts that the provisions of section 157 of the Public Health Act, 1875 (as amended by the Act of 1890), so far as they relate to bye-laws with respect to the structure of walls and foundations of new buildings, for purposes of health, and with respect to the matters mentioned in sub-sections (3) and (4) of the said section 157, and with respect to the structure of floors, the height of rooms to be used for human habitation, and to the keeping of water-closets supplied with sufficient water for flushing, shall be extended so as to empower rural authorities to make bye-laws in respect to the said matters and to provide for the observance of such bye-laws, and to enforce the same as if such powers were conferred on the rural authorities by virtue of an order of the Local Government Board made on the day when this part of the Act is adopted; and that section 158 of the Public Health Act, 1875, shall also apply to any such authority, and shall be in force in every rural district where Part III. of the Act of 1890 is adopted.

It is to be observed—first, that sub-sections (4) and (5) (and not sub-sections (3) and (4) of section 41 of the Irish Act correspond with sub-sections (3) and (4) of section 157 of the English Act; secondly, that no power is given to the Local Government Board for Ireland to invest a rural sanitary authority with urban powers; thirdly, that some of the powers given by section 23 of the Act of 1890 are already possessed by sanitary authorities in Ireland—the provisions in the Irish Public Health Act, 1878, being much wider than those of the corresponding sections in the English Act; and fourthly, that sections 41 and 42 of the Irish Public Health Act apply to both *rural* and urban authorities, thus differing from sections 157 and 158 of the English Act of 1875, which apply to urban authorities only.

It would thus seem that the application of section 23 of the Act of 1890 to Ireland would cause some confusion.

Sections 25 and 33 of the Public Health Acts Amendment Act, 1890, referred to in the preceding chapter, may be applied to rural and urban districts, and section 24 to urban districts in Ireland as well as in England.

In towns constituted under the Towns Improvement (Ireland) Act,

1854 (whether urban sanitary districts or not), where the provisions of section 110 of the Towns Improvement Clauses Act, 1847, as incorporated with section 44 of that Act, have been adopted, before beginning to build any church, chapel, or school, or a place of public amusement or entertainment, or for holding large numbers of people for any purpose whatsoever, the person intending to build the same must give fourteen days' notice in writing to the town commissioners, and accompany such notice with a plan and description of the manner proposed for its construction with respect to the means of supplying fresh air to such building; and no person is to begin to build such building until the manner proposed for its construction, with respect to the means for supplying fresh air, has been approved of by the commissioners.

Control of town commissioners in Ireland, as such, over new buildings (17 & 18 Vict., c. 103).

Section 36 of the Public Health Acts Amendment Act, 1890, provides that all buildings, being places of public resort in any urban district, shall be provided with proper means of ingress and egress.

X. OFFENSIVE TRADES

In addition to the offensive trades included in the definition contained in section 112 of the English Act, the trade of gut manufacture appears in the corresponding section of the Irish Act.

Definition (Public Health (Ireland) Act, 1878, Sec. 128).

In Ireland an urban authority only can prevent the establishment of an offensive trade within the meaning of the Public Health Act, as a rural sanitary authority cannot be invested with urban powers for that or any other purpose.

The power to make bye-laws as to offensive trades in urban districts is permissive in England; in Ireland it is imperative on the urban authority, with the sanction of the Local Government Board, to make such bye-laws.

The making of bye-laws as to offensive trades imperative (Sec. 129).

In other respects the provisions in the English and Irish Acts on the subject are similar.

XI. THE ALKALI, &c., WORKS REGULATION ACTS, 1881–1892

These Acts apply to Ireland, but the inspection and regulation of the works are carried out by officers of the Local Government Board (England) and not of the Local Government Board for Ireland.

Control of alkali, &c., works (44 & 45 Vict., c. 37).

The Local Government Board for Ireland is constituted the 'central authority' for Ireland within the meaning of the Act, and as such have only the following functions to discharge:—

(*a*) To determine, in case of difference, on the sufficiency of appliances, to enable work to be carried on in accordance with the Act; (*b*) to receive (but not to deal with) applications made by sanitary authorities for additional inspectors; (*c*) to sanction 'special rules' made by owners of works under the Act; (*d*) to sanction an action being brought by an inspector for an alleged offence under the Act; and (*e*) to receive complaint by sanitary authorities in cases of nuisances, to inquire into the same, and to direct such proceedings to be taken by an inspector as they think just.

Thus, in case any sanitary authority in Ireland considers an additional inspector necessary, they may apply to the Local Government Board for Ireland for such inspector, but the appointment will rest with the English Local Government Board.

In the complaints by a sanitary authority under section 27 the Local Government Board for Ireland, as the 'central authority,' may make inquiry into the matters complained of, and after the inquiry may direct such proceedings to be taken by an inspector 'as they think just.' Such a case has not arisen, but if it were to occur it would probably lead to a clashing of jurisdiction, owing to the inspector being an officer of the English Local Government Board.

XII. FACTORIES AND WORKSHOPS

41 Vict., c. 16 ; 46 & 47 Vict., c. 53 ; 54 & 55 Vict., c. 75.

The Factory and Workshops Acts of 1878, 1883, and 1891 apply fully to Ireland.

In statutes like these it is usually provided that in their application to that country the Public Health Act, 1875, shall mean the Public Health (Ireland) Act, 1878, and in the absence of such a provision in the Act of 1891 it appears to be doubtful in what way (if any) the expenses of an Irish sanitary authority incurred in the execution of section 7 of that Act as to the safety of factories can be defrayed.

A circular was issued by the Local Government Board for Ireland to sanitary authorities on June 13, 1893, relative to the duties devolving upon them under the Acts in question, and from it the following extracts are taken :—

'Important duties are placed upon sanitary authorities by the Acts mentioned in regard to the sanitary condition of factories, workshops, and bakehouses, and, whilst reminding sanitary authorities of their duties and powers under each Act, the Board desire to call particular attention to the provisions contained in the Act of 1891 respecting the sanitary condition of workshops.

'The expression "workshop" is defined in section 93 of the Act of 1878.

'It is provided by section 3 (2) of the Act of 1891 that, for the purpose of their duties with respect to workshops, sanitary authorities and their officers shall, without prejudice to their other powers, have all such powers of entry, inspection, taking legal proceedings or otherwise, as an inspector of factories has under the Act of 1878.

'Section 4 of the Act of 1891 provides that workshops and workplaces shall be kept free from effluvia arising from any drain, water-closet, earth-closet, privy, urinal, or other nuisance, and unless so kept shall be deemed to be a nuisance liable to be dealt with summarily under the law relating to public health, and, further, provides that where, on the certificate of a medical officer of health, or inspector of nuisances, it appears to any sanitary authority that the limewashing, cleansing, or purifying of a workshop, or of any part thereof, is necessary for the health of the persons employed therein, the sanitary authority shall give notice in writing to the owner or occupier of the workshop to limewash, cleanse, or purify the same, or part thereof, as the case may require. If the person to whom notice is so given fails to comply therewith within the time therein specified, he shall be liable to a fine not exceeding ten shillings for every day during which he continues to make default, and the sanitary authority may, if they think fit, cause the workshop or part to be limewashed, cleansed, or purified, and may recover in a summary manner the expenses incurred by them in so doing from the person in default.

'Section 4 of the Act of 1878 provides that where it appears to an

inspector of factories that any act, neglect, or default in relation to any drain, water-closet, earth-closet, privy, ash-pit, water-supply, nuisance, or other matter, in a factory or workshop is punishable or remediable under the law relating to public health, but not under that Act, the inspector shall give notice in writing of such act, neglect, or default to the sanitary authority in whose district the factory or workshop is situate, and it shall be the duty of the sanitary authority to make such inquiry into the subject of the notice, and take such action thereon, as they may consider proper for the purpose of enforcing the law. For the purposes of this section the inspector of factories may take with him into the factory or workshop a medical officer of health, inspector of nuisances, or other officer of the sanitary authority. Section 2 (1) of the Act of 1891 applies this enactment to workshops conducted on the system of not employing any child, young person, or woman therein, and also to laundries.

'Section 2 (2) of the Act of 1891 provides that where an inspector of factories has given notice to the sanitary authority under section 4 of the Act of 1878, as amended by the Act of 1891, and proceedings are not taken within a reasonable time for punishing or remedying the act, neglect, or default, the inspector may take the like proceedings for punishing or remedying the same as the sanitary authority might have taken, and shall be entitled to recover from the sanitary authority all such expenses in and about the proceedings as the inspector incurs and are not recovered from any other person and have not been incurred in any unsuccessful proceedings.

'By section 1 of the Act of 1891 the Secretary of State is empowered in cases in which he is satisfied that the provisions of the law relating to public health as to effluvia arising from any drain, privy, or other nuisance, or with respect to cleanliness, ventilation, overcrowding, or limewashing, are not observed in any workshops or class of workshops (including workshops conducted on the system of not employing any child, young person, or woman therein) or laundries, he may, if he thinks fit, by order, authorise and direct an inspector of factories to take, during such period as may be mentioned in the order such steps as appear necessary or proper for enforcing the said provisions. An inspector so authorised will have the same powers of taking proceedings and of recovering the expenses from the sanitary authority as those possessed by an inspector under the provisions of section 2 (2) of the Act which are mentioned above. It will be observed that this section applies to laundries as well as to workshops.

'Section 75 of the Act of 1878 (which requires notice to be given to an inspector of factories of the occupation of a factory) is applied to workshops by section 26 of the Act of 1891, and the last-mentioned section provides that on receiving notice of the occupation of a workshop the inspector of factories shall forthwith forward the notice to the sanitary authority of the district in which the workshop is situate.

'If any child, young person, or woman, as defined in section 96 of the Act of 1878, is employed in a workshop, and the medical officer of the sanitary authority becomes aware thereof, sub-section 3 of section 3 of the Act of 1891 directs that he shall, forthwith, give notice thereof to the factory inspector of the district.

'A factory or workshop in which there is a contravention of any requirement made under the Act of 1891 shall be deemed not to be kept in conformity with the Act of 1878, and it will be seen from sec-

tion 81 of the last-mentioned Act that in such a case the occupier of the factory or workshop would be liable to a fine not exceeding ten pounds.

'In addition to the clauses above adverted to, the Act of 1891 contains other important provisions, including provisions against fire in factories, and some amendments of the previous acts.'

XIII. BAKEHOUSES

The law in Ireland in respect of bakehouses is practically the same as in England.

Legal proceedings.

In summary proceedings for offences and fines under the Factory and Workshop Acts an information may be laid within three months after the date at which the offence comes to the knowledge of the factory inspector, or in case of an inquest being held in relation to the offence, then within two months after the conclusion of the inquest, so, however, that it shall not be made after the expiration of six months from the commission of the offence. (Section 29 of the Act of 1891.)

In Ireland appeals from a court of summary jurisdiction lie in the manner and subject to the conditions and regulations prescribed in section 24 of the Petty Sessions (Ireland) Act, 1851, and any Acts amending the same. Fines imposed under the Act, save as is otherwise expressly provided for by the Act, are to be applied in the manner directed by the Fines Act (Ireland), 1851, and any Act amending the same.

XIV. SLAUGHTER-HOUSES

Definition.

The definition of the expression 'slaughter-house' is the same in the Irish Public Health Act, 1878, as in the English Act of 1875, and in other respects the provisions of the two Acts are similar, with the following exceptions:—

Public Health (Ireland) Act, 1878, Sec. 105.

1. That nothing in the incorporated provisions of the Towns Improvement Clauses Act, 1847, is to prejudice or affect any rights, powers, or privileges, of any persons incorporated by any local Act in force at the time of the passing of the Irish Public Health Act on August 8, 1878, for the purpose of making or maintaining slaughter-houses; and

2. That an urban authority in Ireland may make bye-laws for the decent and seemly conveyance of meat through the public thoroughfares.

The English model bye-laws, with the necessary modifications, will also apply in Ireland.

In towns constituted under the Towns Improvement (Ireland) Act, 1854, if section 47 of that Act has been adopted, the provisions of the Towns Improvement Clauses Act, 1847, with regard to slaughter-houses will be in force although such towns may not be urban sanitary districts, and the town commissioners may 'by special order'[1]

[1] When commissioners are empowered to do anything by 'special order,' it is necessary that the resolution to do the same should be agreed to at some meeting of which special notice has been given, and confirmed in a subsequent meeting held not sooner than four weeks after the preceding meeting. The subsequent meeting must be advertised once at least in each of the weeks intervening between the two meetings in some newspaper circulating within the district, and special notice must be given to each of the commissioners of such meeting. If the resolution be confirmed, it is not to be carried into effect until after the

purchase, rent, build, or otherwise provide such slaughter-houses and knackers' yards as they think proper for slaughtering cattle within the town.

XV. UNSOUND OR DISEASED MEAT, &c.

The principal provisions of the Irish Public Health Act relating to articles of food which are unsound or diseased are contained in sections 132 to 135, the operation of which extends to the articles mentioned in the English Act, and in addition to 'butter,' either exposed for sale, or 'being conveyed for sale,' or deposited in any place for the purpose of sale and intended for the food of man. Any sanitary officer of the sanitary authority may seize the food, and, should he do so in a public thoroughfare, may require the person conveying the same to give his own name and address and that of the owner of the article seized, and in default, or if the officer have reasonable ground for suspecting the names or addresses so given to be false, he may detain such person and give him into custody until his real name and address be ascertained. Any person giving a false name to any officer authorised to demand the same is liable to a penalty not exceeding five pounds. Sec. 132.

Section 42 of the Markets and Fairs Clauses Act, 1847, is not incorporated with the Irish Public Health Act; but section 103 of the latter statute enables an urban sanitary authority, with respect to any market belonging to them, to make bye-laws for the same purposes so far as the same relate to markets, including the prevention of the sale or exposure for sale of unwholesome provisions in the market. Section 15 of the Markets and Fairs Clauses Act, 1847, incorporated with the Irish Public Health Act, applies only in the case of an urban sanitary authority.

In other respects the provisions of the English and Irish Public Health Acts are similar.

XVI. HORSE-FLESH

The Sale of Horse-flesh, &c., Regulation Act, 1889, applies also to Ireland. 52 & 53 Vict., c. 11.

XVII. ADULTERATION

The law of adulteration so far as relates to Ireland is contained in the Sale of Food and Drugs Act, 1875, the Sale of Food and Drugs Act Amendment Act, 1879, and the Margarine Act, 1887. The Local Government Act of 1888 does not apply to that country. Food and Drug Acts, 38 & 39 Vict., c. 63. 42 & 43 Vict., c. 30. 50 & 51 Vict., c. 29.

(*a*) *The Sale of Food and Drugs Acts*, 1875 *and* 1879

The appointment of analysts and the other powers given by section 10 of the Sale of Food and Drugs Act, 1875, in Ireland are Appointment of analyst.

expiration of one month from the date of the second meeting, and during such month the resolution must be advertised once at least in each week in some newspaper circulating in the district, and public notice given by means of placards posted in public places within the district. Reference is to be made in the advertisement and notice to some place provided by the commissioners where the plan or particulars of the work or matter to which the resolution relates may be gratuitously seen by the ratepayers. If before the expiration of the month a remonstrance in writing against carrying into effect the resolution, or any part of it, is signed by a majority of the ratepayers having votes in the election of the commissioners, the resolution, or the part of it objected to, is not to be carried into effect. The part not objected to may be rescinded or carried into effect as the commissioners think fit.

vested in the case of boroughs in the town council, and elsewhere in the grand juries of the respective counties, including under the term 'county' the county of a city and the county of a town not being a borough. The Local Government Board for Ireland is substituted for the Local Government Board in the application of this section to Ireland.

The town council of any borough in Ireland with a population under or over 10,000 may agree that the analyst appointed by any neighbouring borough, or for the county in which the borough is situated, shall act for the borough during such time as they think proper, in which case they must make due provision for the payment of his remuneration, and if the analyst consents, he will during such time be the analyst for the borough for the purposes of the Sale of Food and Drugs Acts.

Analyst to report quarterly.

Section 19 of the Act of 1875 provides that the analyst is to report quarterly to the authority that appointed him the number of articles analysed by him under the Act during the foregoing quarter, specifying the result of each analysis and the sum paid to him in respect of it; and such authority is required to transmit annually to the 'Local Government Board' a certified copy of the quarterly report. No provision was, however, made for the substitution of the Local Government Board for Ireland for that of England in the application of the section to Ireland, the result being that no returns appear to have been made at all from Ireland.

By section 29 of the Act of 1875 the expenses of executing the Act are to be borne in counties by the grand jury cess, and in boroughs by the borough fund or borough rate, and the grand jury were authorised at any assizes at which it was proved that any such expenses have been incurred or paid to present, to be raised off the county, the moneys required to defray the same. As grand juries have no existence except during the time of assizes, a difficulty was experienced, owing to the absence of any authorisation for the immediate payment of expenses in the interval between the two assizes of the year, and to meet this a provision was inserted in the Irish Public Health Act, 1878 (section 136), enabling grand juries to present in advance for the purpose of the due execution of the Sale of Food and Drugs Act.

In 1876 the law adviser to the Lord Lieutenant gave an opinion to the effect that, although the authority charged with the execution of the Act was the grand jury of the county which appoints the analyst, the local authority and its officers named in section 13 of the Act of 1875 are authorised to proceed under the provisions of that section, and that the words 'medical officer of health' and 'inspector of nuisances' in the section included 'sanitary officers' and 'sub-sanitary officers' under the Public Health Act. He suggested, however, that, in order to avoid any question as to names, the sanitary authority should formally nominate the sanitary officers and sub-sanitary officers respectively to be the medical officers of health and inspectors of nuisances within the meaning of the Act.

In the Irish case of the guardians of Enniskillen Union *v.* Hilliard (14 Law Reports, Ireland, 214) it was decided by the Exchequer Division of the High Court that the provisions of section 14 of the Act of 1875 as to dealing with samples of food when purchased do not apply to the purchase of an article unless for analysis; and that, therefore, it is not a condition precedent to the right of a purchaser

for consumption to take proceedings for a penalty under the Act that he should have given to the seller the notification required by that section. The masters of workhouses, where the guardians would otherwise be merely in the position of purchasers in the course of ordinary contracts from day to day, are sometimes constituted sanitary sub-officers or inspectors of nuisances for the purposes of the Acts, so that the powers of section 3 of the Act of 1879 may be put into operation in cases where analyses are required.

In Ireland there is a right of appeal to the next court of quarter sessions held in the same division of the county where the conviction, if at petty sessions, was made, or, in the case of conviction by a borough justice, to the recorder of the borough.

Where the quarter sessions commence within ten days from the date of conviction the appeal may be made to the next succeeding sessions.

(*b*) *The Margarine Act*, 1887

Definition of 'local authority.'

The local authority is defined to mean any local authority authorised to appoint a public analyst under the Sale of Food and Drugs Act, 1875; so that in Ireland every manufactory of margarine is to be registered in boroughs with the town council, and elsewhere with the grand jury of the county, in such manner as the Local Government Board for Ireland may direct.[1]

XVIII. DAIRIES, COWSHEDS AND MILK-SHOPS

Powers and duties of sanitary authorities in Ireland with respect to dairies, &c.

49 & 50 Vict., c. 32.

In Ireland, prior to the year 1886, sanitary authorities had not, as such, any powers or duties in relation to the regulation of dairies, cowsheds, and milk-shops, the administration of the Contagious Diseases (Animals) Act of 1878, and of the orders made thereunder by the 'Lord Lieutenant, acting by the advice of Her Majesty's Privy Council in Ireland,' being vested in the boards of guardians of the several poor-law unions. Section 9 of the Contagious Diseases (Animals) Act, 1886, provided that the powers vested in the Lord Lieutenant and Privy Council of making general or special orders under section 34 of the Act of 1878 should thenceforth be exercisable by the Local Government Board for Ireland, who might from time to time alter or revoke any such order; and that for the purposes of these two sections, and of any order in force thereunder, the expression 'local authority' should (unless the context otherwise required) mean an urban and rural sanitary authority within the meaning of the Public Health (Ireland) Act, 1878.

Section 34 of the Act of 1878 applied to Ireland as well as England, and in pursuance of its provisions an order in council was made on August 9, 1879, known as 'The Dairies, Cowsheds, and Milk-shops Order of 1879,' which is still in force as modified by the Act of 1886. This order is very similar to the English Privy Council order of 1885. Article 6 of the English order corresponds to article 12 of the Irish order, but in the latter order there is no provision that the fact of registration shall not be deemed to authorise cowkeepers, dairymen, or purveyors of milk to occupy as a dairy or cowshed any particular building, or in any way preclude any proceedings being taken against

[1] The mode of registration, &c., was prescribed by the Local Government Board for Ireland in their order of December 31, 1887.

such person for non-compliance with, or infringement of, any of the provisions of the order, or any regulations made thereunder. Article 7 of the English order is the same as article 5 of the Irish order, except that the date from which the order was to come into operation is in Ireland that of the 'making of the order.' Articles 8, 9, 11, 12, 15, are likewise similar to articles 6, 9, 10, 11, and 8, of the Irish order, the words 'as a sleeping apartment' in article 11 of the English order not being contained in the Irish order.

There are no articles in the Irish order corresponding to articles 10 and 14 of the English order, while instead of article 13 of the latter order, the following provision is made in article 7 of the Irish order: 'a local authority may from time to time make regulations for prescribing and regulating the cleansing of dairies and cowsheds in the occupation of persons following the trade of cowkeepers or dairymen, and the cleansing of milk-stores, milk-shops, and milk-vessels used for containing milk for sale by such persons.'

The Local Government Board for Ireland, by their order of July 7, 1886, empowered urban and rural sanitary authorities to make regulations for the registration with them of all persons carrying on the trade of cowkeepers, dairymen, or purveyors of milk; for the inspection of cattle in dairy-yards and cowsheds; for prescribing and regulating the lighting, ventilation, drainage, and water supply of dairies and cowsheds in the occupation of persons following the trade of cowkeepers or dairymen; and for prescribing precautions to be taken for protecting milk against infection or contamination. For the enforcement of these regulations, urban authorities are empowered to appoint inspectors by an order of August 27, 1886, and officers other than inspectors by an order of December 17, 1886, subject to the approval of the Local Government Board. Rural sanitary authorities had already power to appoint inspectors in pursuance of the Act of 1878 (or of orders in council made thereunder) in their capacity as boards of guardians, subject to the approval of the Lord Lieutenant.

No order was made by the Local Government Board for Ireland similar to that of the English Board of November 1, 1886, and consequently offences against the Irish order of 1879, which contained no provision as to penalties, and against regulations made thereunder, not imposing penalties, appear punishable under section 60 of the Act of 1878, by which a person guilty of an offence against the Act is liable to a penalty not exceeding 20*l*., section 61 enacting that if a person does anything in contravention of the Act, or of an order in council, or of a regulation of a local authority, he is deemed to be guilty of an offence against the Act.

Section 9 (6) of the Contagious Diseases (Animals) Act, 1886, applies to Ireland, the order in council of 1879 being substituted for the English order of 1885, and the Local Government Board for Ireland for the Local Government Board (England).

Expenses of sanitary authorities.

The expenses incurred by sanitary authorities in pursuance of the Acts of 1878 and 1886 are to be defrayed as if they were incurred under the Public Health (Ireland) Act, 1878, and in the case of a rural sanitary authority are to be deemed to be general expenses, that is, chargeable to the entire rural sanitary district. One-half of the money paid by sanitary authorities for the remuneration of officers and other expenses under section 34 of the Act of 1878, as amended by section 9 of the Act of 1886, is recouped out of the general cattle diseases

fund, constituted in pursuance of sections 83 and 84 of the former Act. This fund is raised by an assessment made from time to time on all the poor-law unions in Ireland in proportion to the net annual value of the property therein. The powers of entry given by section 9 (4) of the Act of 1886 for the purpose of enforcing orders under section 34 of the Contagious Diseases (Animals) Act of 1878 apply also to Ireland, section 118 of the Irish Public Health Act being substituted for section 102 of the Public Health Act, 1875.

XIX. BATHS AND WASHHOUSES

Baths and Washhouses (Ireland) Act, 1846 (9 & 10 Vict., c. 87).

In Ireland there is only one Act dealing exclusively with baths and washhouses, namely, 'The Baths and Washhouses (Ireland) Act, 1846,' the preamble of which is similar to that of the English Act of the same year, but no power has been given, as in England, by any subsequent enactment to close public baths in the winter months, and appropriate them during that period to other purposes.

First step in procedure is to 'adopt' the Act.

The Irish Act of 1846 enacted that its provisions might be adopted by the council of any borough, or the town commissioners of any town for such borough or town. No special preliminaries for the purpose of such adoption are prescribed by the Act, so that a resolution of a majority of the governing body present at any regular meeting would appear to be sufficient, and no approval of a Secretary of State was declared necessary. The Public Health (Ireland) Act, 1878, however, now constitutes urban sanitary authorities the sole authorities empowered to act within their districts under the Baths and Washhouses Act to the exclusion of all other authorities, and in place of any authority who had previously adopted the Act. In rural districts the Act cannot be put in force except in municipal towns, not being urban sanitary districts, which are situated therein.

Expenses of sanitary authority.

When the Act has been adopted in an urban sanitary district, the expenses incurred by the urban authority in its execution will be borne in the same manner as their expenses under the Irish Public Health Act, and they will have the same power of borrowing in respect of such expenses. In municipal towns, not being urban sanitary districts, the expenses are chargeable upon the town fund, and may either be levied as part of the town rate or by a separate rate to be assessed and levied in the same way as the town rate, and such commissioners may also borrow, with the approval of the Local Government Board for Ireland, on the security of the town fund, money required for carrying the Act into execution. Urban sanitary authorities, and town commissioners, can acquire land for baths and washhouses, but only by agreement, and may appropriate, with the approval of the Treasury, for the purposes of the Act in the urban district or town, any lands vested in them, or they may from time to time contract for the purchase or renting of lands necessary for the purposes of the Act therein.

Treasury consent required to appropriation of land for purposes of the Act

The same power to erect, &c., baths and washhouses, given by section 25 of the English Act of 1846, is given by section 11 of the Irish Act, but no special provision has been made in the latter Act for covered swimming baths, as in the English Act of 1878.

There is no provision in the Irish Act as to the number of 'washing-tubs or troughs' for the labouring classes, as in section 5 of the English Act of 1847.

The power of contracting for the purchase or lease of existing bath-

houses contained in section 27 of the English Act of 1846 applies also in the case of Ireland; but the provisions of the English Act of 1882 enabling baths and washhouses in the 'immediate neighbourhood' of the district to be so purchased has not been extended to Ireland.

Supply of water on favourable terms.

The terms on which water and gas companies, &c., may supply water and gas for public baths and washhouses and open bathing-places are similar to the Irish and English Acts of 1846, and by section 75 of the Irish Public Health Act any sanitary authority may supply water on similar conditions, and construct works for a gratuitous supply 'of any public baths or washhouses established otherwise than for private profit, or supported out of any poor or borough rates.'

Treasury consent required to dealing with lands.

The power of selling and exchanging land, with the approval of the Treasury, and of selling after seven years, with consent of the Treasury, baths or washhouses when too expensive, are the same in the English and Irish Acts of 1846.

Charges for baths and washhouses.

The following are the maximum charges provided in the Irish Act of 1846 for baths and washhouses during the first seven years after the establishments are opened for public use, and afterwards, except only so long after such seven years as higher charges may be necessary for defraying the current expenses of the establishments :—

For one person above eight years old, including the use of one clean towel—cold bath, one penny; warm bath, twopence.

For several children, not exceeding four, including the use of one clean towel for every child—cold bath, twopence; warm bath, fourpence.

For the use by one person of one washing-tub or trough, or one pair of washing-tubs or troughs—for one hour only in one day, one penny; for two consecutive hours only in any one day, threepence.

Such charges are to include the use of the drying apparatus for drying all the articles washed, but the time occupied in drying is not to be included in the hour or two hours. A fraction of an hour exceeding five minutes is to be reckoned one hour.

Open bathing-places where several persons bathe in the same water—for one person, one halfpenny.

From this it will be seen that in Ireland there is no provision as to charges for shower or vapour baths, for 'baths of any higher class,' 'washhouses of any higher class,' or for covered swimming baths; while for open bathing-places the charge is fixed at $\frac{1}{2}d.$ instead of $1d.$ per head.

Bye-laws.

The provisions of the Companies Clauses Consolidation Act, 1845, with respect to the making of bye-laws are also incorporated with the Irish Act, and section 34 and schedule A. of the English Act of 1846 correspond with section 20 and schedule A. of the Irish Act; but all bye-laws require in Ireland the approval of one of the principal Secretaries of State, and not the consent of the Local Government Board as in England.

In Ireland, as in England, any person who feels aggrieved by any bye-law made under these provisions may appeal to quarter sessions.

The provision requiring copies or abstracts of the bye-laws to be hung up in every bath-room, open bathing-place, and washhouse, appears also in the Irish Act; but no provision is contained therein enabling bye-laws to be made for the regulation of swimming baths when used for other purposes, such as gymnasiums—the power of

converting swimming baths to such uses not being given by the Irish Act.

Powers under other Acts to provide baths, &c.

Sections 136 to 141 of the Towns Improvement Clauses Act, 1847, incorporated with the Towns Improvement (Ireland) Act, 1854, section 55, also contain provisions enabling town commissioners constituted under that Act, by special order,[1] to purchase, rent, or otherwise provide, either within the limits of the district or at a reasonable distance therefrom, suitable land and buildings to be used for public baths and washhouses, public open bathing-places and public drying-grounds, and to fit up the same with all requisite and proper conveniences. The commissioners may also make regulations for the use of these baths, washhouses, bathing-places, and drying-grounds, and every person offending against the regulations is made liable to a penalty not exceeding forty shillings for every offence. The number of baths for the use of the working classes in any building provided by the commissioners is not to be less than twice the number of the other baths of any higher class.

Reasonable charges may be made by the commissioners for the use of the baths, bathing-places, washhouses, and drying-houses, and a printed copy or sufficient abstract of the bye-laws of the commissioners, so far as regards baths, bathing-places, or washhouses, must be put up in each such bath-room, bathing-place, and washhouse.

Whenever any of such public baths, bathing-places, washhouses, or drying-grounds are deemed by the commissioners to be unnecessary or too expensive to be kept up, the commissioners may by special order discontinue the same, and sell the lands, buildings, and materials for the best price that can reasonably be obtained.

XX. PARKS, PLEASURE-GROUNDS, OPEN SPACES, AND COMMONS

(*a*) *Parks and Pleasure-Grounds*

Parks and Open Spaces Acts, 1869–1890.

There is no provision in the Irish Public Health Act for the acquisition and laying-out of public walks and pleasure-grounds by an urban sanitary authority. Powers similar to those contained in section 164 of the Public Health Act, 1875, are, however, provided for in section 12 of the Open Spaces Act, 1887, and section 6 of the Metropolitan Open Spaces Act, 1881, which apply to sanitary authorities in Ireland.

50 & 51 Vict., c. 32.
44 & 45 Vict., c. 34.

Regulation of Parks, &c. (53 & 54 Vict., c. 59).

Section 44 of the Public Health Acts Amendment Act, 1890, applies also to urban sanitary authorities in Ireland who have adopted Part III. of the Act; but section 45 of the same Act, extending the power of an urban authority to contribute to expenses of parks, &c., is inapplicable, inasmuch as there is no section in the Irish Public Health Act corresponding to section 164 of the English Act, which is specifically referred to in section 45. The Public Parks, Schools, and Museums Act, 1871, does not extend to Ireland.

Power of municipal authorities, as such, to establish public parks (32 & 33 Vict., c. 28).

The Public Parks (Ireland) Act, 1869, authorises the governing body of any municipal town, the population of which, according to the last census for the time being, exceeds 6,000, to establish and maintain any public park or parks and to levy rates, and accept gifts or grants of land, for such purpose, and incorporates the provisions of the Lands

[1] See note at page 368.

Clauses Consolidation Act, 1845, for the purchase of lands by agreement.

Procedure.

Any resolution by the governing body of a town for the purpose of establishing and maintaining a public park is not to have effect unless the same has been agreed to by the governing body in some meeting of which special notice has been given, and has been confirmed in a subsequent meeting held not sooner than four weeks after the next ensuing annual election of the members of the governing body. This

Notice to ratepayers.

subsequent meeting must be advertised once at least in each of the four weeks immediately preceding the said meeting in some newspaper circulating within the limits of the town, and of which special notice in writing has been given to each member of the governing body.

Ample notice is thus to be given to the ratepayers of the intended exercise of the powers given by the Act, and in fact such intention is thus made a test question at the election of the members of the governing body.

Statutable limit of rating not to apply.

Any existing limit to the powers of rating vested in the governing body is removed for the purpose of meeting the expenses incurred in

Limit to increase of rates for parks purposes.

carrying the Act into execution, provided always, however, that no rate made in any one year under the authority of the Act shall exceed threepence in the pound.

Borrowing powers.

Power is also given for the borrowing of money for the purpose of the Act, and for the appointment of committees by the governing body.

Bye-laws.

The governing body may make bye-laws for the use, government, control, or management of the public parks established under the Act, and for the protection and preservation from injury of the same and of the trees, shrubs, walks, seats, gates, fences, and palings, and all other parts thereof, and for the exclusion of improper persons from the same; and may alter or revoke any such bye-laws, and shall appoint a penalty not exceeding five pounds for any and every breach of such bye-law. The bye-laws are to be made by the governing body, in the same manner, subject to the same conditions, and with the like sanction, as if the same were bye-laws made by such governing body under the provisions of, and for the purposes mentioned in, the Act or Acts under which such governing body is constituted or authorised to levy rates.

Removal of restriction as to situation of proposed parks (35 Vict., c. 6).

By the Public Parks (Ireland) Act, 1869, Amendment Act, 1872, public parks may be established and maintained by the governing body of any town, whether such parks are situated within or without, or partly within or partly without, the boundaries of such town.

Power to sell land acquired but not required.

Power is also given by the same Act to a governing body, within five years after the completion of a public park, to sell and dispose by public auction of their estate and interest in any portion of the lands acquired by them and not required for such public park; but only one-fourth part of the lands purchased by them for the purpose of establishing a park may thus be sold.

Power to commissioners under the Towns Improvement (Ireland) Act to provide parks (17 & 18 Vict., c. 103).

Besides the power of establishing parks given by the above-mentioned Acts to the governing bodies of towns with a population exceeding 6,000, there are facilities afforded to the town commissioners of *all* towns constituted under the Towns Improvement (Ireland) Act, 1854, to provide places for public recreation. This Act incorporates section 135 of the Towns Improvement Clauses Act, 1847, by which the commissioners may, by special order,[1] purchase, rent, or

[1] See note, page 368.

otherwise provide lands, grounds, or other places either within the limits of the municipality, or at a reasonable distance therefrom, not exceeding three miles from the centre of the principal market-place, if any, or from the principal office of the commissioners, to be used as a pleasure ground or place of public resort or recreation. The commissioners may from time to time level, drain, plant, and otherwise lay out and improve any such public lands or grounds for the more convenient use and enjoyment thereof.

(*b*) *Open Spaces other than Commons*

The Open Spaces Acts, 1877 to 1890, apply also to Ireland, references therein to the Public Health Act, 1875, being construed as references to the Public Health (Ireland) Act, 1878.

Powers of a *rural* authority under the Open Spaces Act, 1887 (50 & 51 Vict., c. 32).

A question might arise as to the investing of a rural sanitary authority in Ireland with the powers of the Open Spaces Act, 1887, the Local Government Board for Ireland having no general power under the Irish Public Health Act, such as is given by section 276 of the English Public Health Act, 1875, to invest a rural authority with urban powers. It may be, however, that the provisions of section 5 of the Act of 1887 are in themselves sufficient to enable the Irish Local Government Board to invest by order a rural authority with the powers of the Act; and, as a matter of fact, this has been done in the case of the Clogher Union Rural Sanitary Authority, by an order dated April 26, 1888.

(*c*) *Commons*

The Commons Act, 1876, does not extend to Ireland.

XXI. GYMNASIUMS

The Museums and Gymnasiums Act, 1891, applies to Ireland, the Public Health (Ireland) Act, 1878, being substituted for the Public Health Act, 1875, and the Local Government Board for Ireland for the Local Government Board.

The Museums and Gymnasiums Act, 1891 (54 & 55 Vict., c. 22).

Until the passing of this Act urban authorities in Ireland had no power at any time to provide and maintain gymnasiums out of the local rates.

XXII. INFECTIOUS DISEASES AND HOSPITALS

(*a*) *The Law relating generally to Infectious Disease*

The Infectious Disease (Prevention) Act, 1890, extends to Ireland, and up to the present has been adopted in part or wholly by five urban and four rural sanitary authorities, representing an aggregate population, according to the census of 1891, of 651,478.[1]

The Infectious Disease (Prevention Act, 1890 (53 & 54 Vict., c. 34).

Penalties under the Public Health (Ireland) Act, 1878, in respect of offences in connection with infectious disease.

The sections of the Irish Public Health Act imposing penalties on individuals for neglecting to take proper precautions for preventing the spread of infectious disease are 142 to 145, which correspond to sections 126 to 129 of the English Act.

Section 142 of the Irish Public Health Act, in addition to the offences mentioned in section 126 of the English Act, imposes a penalty of 5*l.* on any person (*a*) who exposes or conveys without proper pre-

[1] The urban sanitary districts in which the Act was adopted are—Belfast, Clonmel, Cork, Dublin, and Lurgan; and the rural sanitary districts are those of Ballinasloe, Clonmel, Dungarvan, and Lismore Unions.

caution the body of any person who has died of any dangerous infectious disorder; or (*b*) who 'wakes' or permits to be 'waked' in any house, room, or place over which he has control, the body of any person who has died of any dangerous infectious disorder. The same section also provides that any person who, while suffering from any such disorder, enters any public conveyance without previously notifying to the owner or driver that he is so suffering, besides being liable for the loss and expenses incurred by the owner and driver in having the conveyance disinfected, as in the English section, may also be summarily ejected from the conveyance.

Section 143 of the Irish Act requires every owner or driver of a public conveyance to provide immediately for its disinfection after it has to his knowledge conveyed not only any person suffering from a dangerous infectious disorder, as in section 127 of the English Act, but also any bedding, clothing, rags, or other things which have been exposed to infection from such disorder, and which have not been previously disinfected; and if he fails to do so he will be liable to a penalty of 5*l*. No such owner or driver will be required to convey any person so suffering, or any such bedding, clothing, or other things, until he has been paid a sum sufficient to cover any loss or expense incurred by him in carrying these provisions into effect.

Section 144 of the Irish Act corresponds with section 126 of the English Act as to the letting for hire of houses, rooms, or parts of houses in which persons suffering from a dangerous infectious disorder have been lodging; and for the purposes of the Irish enactment the keeper of a school as well as of an inn will be deemed to let for hire part of a house to any person admitted as a guest into such school or inn.

Section 145 of the Irish Act differs from the corresponding section of the English Act (129) by the fact that its provisions apply not only to persons letting for hire any house or part of a house who make false statements as to infectious disease, but also to persons hiring or negotiating for the hire of any house or part of a house who 'on being questioned by any person letting, or showing for the purpose of letting, such house or part of a house as to the fact of any of the persons for whose use the said house or part of the house is about being hired being, or, within three months previously, having been affected by any dangerous infectious disorder, knowingly makes a false answer to such question.'

The specified period in the Irish Act is three months instead of six weeks as in the English Act; the penalty is the same in both Acts.

The duty of the sanitary authority to cause premises to be cleansed and disinfected, imposed by section 120 of the English Act, is also imposed by section 137 of the Irish Act on sanitary authorities in Ireland who may act on the certificate of their 'sanitary officer' or of any legally qualified medical practitioner. The maximum penalty in the Irish Act is forty shillings—and not ten shillings, as in the English Act—for every day during which default continues to be made by the owner or occupier on whom the notice required by the section has been served.

Section 138 of the Irish Act contains the same provision as section 121 of the English Act respecting the power of the sanitary authority to direct the destruction of bedding, clothing, or other articles exposed to infection, and to give compensation for the same.

As to the provision of the means of disinfection, section 139 of the Irish Public Health Act differs from the corresponding section of the English Act (122) in making it compulsory on the sanitary authority to cause any articles brought for disinfection to the place which may be provided by them for the purpose to be disinfected free of charge. The sanitary authority may also provide for the conveyance of infected articles to such place.

With regard to hospital accommodation, the provisions contained in section 155 of the Irish Act are similar to those in section 131 in the English Act, except in the following particulars :—(*a*) The sanction of the Local Government Board for Ireland is required to enable the sanitary authority to provide hospitals for the use of the inhabitants of its district; (*b*) hospital accommodation may be provided to meet the cases of the convalescent as well as of the sick; and (*c*) there is no provision enabling two or more sanitary authorities in Ireland to combine in providing a common hospital. This last-mentioned object could of course be achieved by the formation of a joint board; but that would mean the delay of a year, or the best part of a year, while the provisional order constituting such board is being made and confirmed by Parliament.

The Cholera &c. Protection (Ireland) Act, 1884 (47 & 48 Vict., c. 69).

By section 2 of the Cholera, &c., Protection (Ireland) Act, 1884, it is provided that, when under the provisions of any Act sanitary authorities in Ireland are empowered to acquire a site for a cholera or other hospital within their district, they may, with the sanction of the Local Government Board, exercise such power for the acquisition of the site for such purpose without, but contiguous to, the district.

Cholera Hospitals Act, 1893.

Under an Act passed on June 9, 1893, entitled the 'Cholera Hospitals (Ireland) Act, 1893,' sanitary authorities are empowered, under certain circumstances and subject to certain conditions, to take compulsorily land not exceeding two statute acres in extent as a site for the purpose of erecting thereon a temporary cholera hospital. The powers of the Act will, however, expire on December 31, 1894.

There is no enactment relating to Ireland which corresponds with section 14 of the Poor Law Act, 1879, enabling the guardians of any union to transfer to themselves, as rural sanitary authority, any hospital or building vested in them under the Acts relating to the relief of the poor, in order that the same may be used for the reception of persons suffering from any dangerous infectious disorder.

Compulsory removal of patients to hospital.

Section 141 of the Irish Public Health Act relating to the removal, by order of a justice, of persons suffering from dangerous infectious disorders to a hospital provided within the district of a sanitary authority is similar in terms to section 124 of the English Act, with this difference, that the removal may take place if the patient is lodged in a room occupied by other persons not suffering from infectious disease, and not merely, as in the English Act, occupied by more than one family.

Ambulances.

By section 140 of the Irish Act it is obligatory on the sanitary authority to provide and maintain a carriage or carriages suitable for the conveyance of persons suffering under any infectious disorder, and to pay the expense of conveying therein a person so suffering to a hospital or other place of destination. The Irish Act also contains a provision not in section 123 of the English Act, that the sanitary authority shall keep such carriage or carriages properly disinfected. Section 156 of the Irish Act, as to the recovery of the cost of main-

tenance of a patient in hospital, is the same as section 132 of the English Act.

There are no provisions in the Irish Act similar to those contained in sections 133 and 125 of the English Act, which deal respectively with the temporary supply by a sanitary authority of medicine to the poor in times of epidemic, and the power of a sanitary authority to make regulations respecting the removal to hospital of infected persons brought into their district by ships. Neither does the Public Health (Ships, &c.) Act, 1885, apply to Ireland.

Removal of body of a person who has died of an infectious disease to a mortuary.

With regard to the removal to mortuaries in certain cases of the bodies of persons who have died from infectious disease and their subsequent burial, section 158 of the Irish Public Health Act contains a provision not in section 142 of the English Act, requiring that the body of any person who has died of a dangerous infectious disease in a hospital or place for the treatment of the sick shall not be removed from such hospital until removed direct to a mortuary or cemetery, and declaring that any person violating, or any officer of a hospital or other person who knowingly permits a violation of this enactment, is liable to a penalty of 5*l*. This section of the Irish Act also provides that a fee of one guinea is payable by the sanitary authority to the medical practitioner who gives the certificate on which the justice is empowered to order the removal of the body.

52 & 53 Vict., c. 72.

The Infectious Disease (Notification) Act, 1889,[1] may be adopted in Ireland by an urban or rural sanitary authority, and has been put in operation in nine rural and six urban sanitary districts in that country with a population of 553,082.[2]

Infection in schools.

As to the closing of schools or exclusion of children therefrom during epidemics, there is no direct rule made by the commissioners of national education in Ireland compelling a school to be closed ; but by section 146 of the Irish Public Health Act (to which there is no corresponding enactment in the English Act) it is provided that 'any person who shall knowingly or negligently send a child to school who within the space of three months has been suffering from any dangerous infectious disorder, or who has been resident in any house in which such dangerous infectious disorder shall have existed, within the space of six weeks, without a certificate from some duly qualified medical practitioner that such child is free from disease and infection, and unless his or her clothes have been properly disinfected, shall be liable to a penalty not exceeding forty shillings.'

The Local Government Board for Ireland issued on December 5,

[1] Under article 68 of the general order for regulating the management of workhouses made, under the Poor Law Acts, by the commissioners for administering the laws for relief of the poor in Ireland on February 5, 1849, the medical officer of the workhouse is to make any such written report relative to any sickness prevalent among the paupers in the workhouse as the board of guardians or the commissioners may require of him. Article 21 (xvi.) of the general order containing rules for the government of dispensary districts made by the Local Government Board for Ireland on November 3, 1885, provides that the medical officer of a dispensary district, in the event of the occurrence of cases of any dangerous contagious disease in the district under his charge in such numbers as to give reasonable ground to apprehend that it may become epidemic, shall address a report of the facts to the Local Government Board, so as to enable them to call upon the board of guardians without delay to make such special provision as may be necessary to prevent or mitigate the evil.

[2] The Act has been adopted in the rural sanitary districts of the unions of Ballina, Carrick-on-Shannon, Clonmel, North Dublin, Dungarvan, Edenderry, Roscrea, Shillelagh, and Trim, and in the urban sanitary districts of Ballymena, Clonmel, Cork, Dublin, Londonderry, and Pembroke.

1889, an order similar to that of the English Board of September 12 of the same year, prescribing the form of certificate required by section 4 of the Infectious Disease (Notification) Act to be sent to the medical officer of health by medical practitioners attending on patients suffering from infectious disease.

The Isolation Hospitals Act, 1893 (56 & 57 Vict., c. 68), which enables county councils to provide hospitals for the reception of patients suffering from infectious disease, does not extend to Ireland.

(*b*) *The Law relating to Cholera and Extraordinary Epidemics*

Power of Local Government Board to make regulations.

The powers conferred by section 148 of the Irish Public Health Act on the Local Government Board for Ireland to make regulations as to cholera or any other epidemic, endemic, or infectious disease are similar to those conferred on the English Board by the Public Health Act of 1875, the publication of such regulations in the 'Dublin Gazette' being substituted for publication in the 'London Gazette,' and the provisions of the Public Health Act, 1889, apply equally to Ireland as to England.

The regulations now in force in Ireland under these enactments are contained in the orders of the Local Government Board for Ireland dated December 6, 1890 (as amended by an order made on July 26, 1892) and September 10, 1892. These orders have received the consent of the Commissioners of Customs required by the Public Health Act, 1889, and are addressed to the coastguard and officers of customs in Ireland, to the boards of guardians of unions, to the town councils, and to the commissioners severally acting as sanitary authorities on any part of the coast of Ireland, to all masters of ships, and to all pilots.

Cholera orders.

The Local Government Board for Ireland, when first issuing their cholera orders under the Sanitary Acts, addressed them to all the riparian authorities bordering upon the principal ports. In practice it was found so difficult to carry out the regulations that representations were made requesting that their execution might be entrusted to some one of the several riparian authorities having jurisdiction within the limits of the customs' ports. The Local Government Board have accordingly since 1873 addressed their cholera orders to the boards of guardians, whose unions appeared to be most conveniently situated in connection with the several ports for carrying the regulations into effect. The whole of the seaboard of Ireland is in this way parcelled out amongst the boards of guardians whose unions are bounded by the sea-shore, and they are, to the exclusion of the urban sanitary authorities, the sanitary authorities charged with the execution of the regulations made under the provisions of section 148 of the Irish Public Health Act. It is to be observed that there are no 'Port Sanitary Authorities' as such in Ireland.

For the purposes of the orders, every ship is to be deemed infected with cholera in which there is or has been during the voyage, or during the stay of such ship in a port in the course of such voyage, any case of cholera.

The definitions of 'ship,' 'officer of customs,' 'master,' 'cholera,' and 'medical officer of health' are the same in the Irish and English orders. In the Irish order the term 'coastguard' includes any person belonging to the coastguard having authority from the Lords Com-

missioners of the Admiralty; the term 'port' means a port established for the purposes of the laws relating to the customs of the United Kingdom; and the term 'sanitary authority' means the guardians of the poor of the unions named in the schedule to the order of December 6, 1890, within the several limits mentioned therein. This schedule, however, was afterwards altered by an amending order made on July 26, 1892.

The regulations prescribed by the English order of August 29, 1890, and the Irish order of December 6 of that year, are for all practical purposes the same. The latter order further provides that every medical officer of health employed by a sanitary authority under this order shall be paid by such sanitary authority such remuneration for his services as the Local Government Board for Ireland may direct or approve, and that all expenses that may be incurred by any board of guardians in carrying out the provisions of the order shall be defrayed out of a common fund to be contributed, in such proportions as the Local Government Board for Ireland shall from time to time order, by the sanitary authorities of the urban and rural sanitary districts, as defined by the Public Health (Ireland) Act, 1878, which, or any part of which, abut on the port within which the provisions of the order are to be enforced and executed by such board of guardians.

The English amending order of September 6, 1892, and the Irish amending order of September 10, 1892, are similar both in substance and the manner in which they affect the orders of 1890, which they respectively amend.

The order made by the Local Government Board for Ireland on August 15, 1893, with reference to the importation of rags from places in which cholera has been prevalent, corresponds in all essential particulars with the provisions of the English order of August 5, 1893. By a further order, dated September 18, 1893, the words 'rags packed in bales and imported as merchandise' were declared to mean rags compressed by hydraulic force transported as wholesale merchandise in bales surrounded by iron bands, and with marks and numbers showing their origin, and accepted as such by the Commissioners of Customs.

It is important, however, to keep in view the fact that the foregoing orders issued under section 148 of the Irish Public Health Act refer only to cholera afloat, and that they are intended to meet the danger of sea-borne cases of cholera. If the cholera obtained a footing in the country, regulations would be issued under Section 149 of the Irish Act, dealing with the outbreak of formidable epidemic, endemic, or infectious disease ashore, a course which was adopted in the case of an outbreak of fever in the Swinford Union in July and August, 1880. This section corresponds with section 134 of the English Act of 1875, but contains the following additional provision:—'for the purpose of any regulations to be made under this section, any ship or vessel lying in any river, harbour, or other water within the district of a sanitary authority shall be subject to the jurisdiction of that authority in the same manner as if it were a house within such district; and any ship or vessel lying in any water not within the district of a sanitary authority shall be deemed to be within the district of such sanitary authority as may have been or may be prescribed by the Local Government Board, and where no sanitary authority has been prescribed, then of the sanitary authority whose district nearest adjoins the place where such ship or vessel is lying.'

There is no special enactment as to the publication of these regulations, but there is a general provision to the effect that every order made by the Local Government Board under the Irish Public Health Act is to be published in such manner as the Board may direct, and the production of a printed copy of the 'Dublin Gazette' containing such publication is conclusive evidence of the making of the order. The cholera orders were accordingly published in the Gazette.[1]

By section 150 of the Irish Act, the board of guardians of any union within which, or within part of which, regulations issued under the above provisions are in force are to superintend and see to the execution of the same, and that section contains the following provisions, which do not appear in section 136 of the English Act:—'any such expenses incurred by any board of guardians with respect to any ship or vessel lying in any river, harbour or water, shall, in case the Local Government Board so direct, be defrayed out of a common fund to be contributed by the sanitary districts which, or any part of which, abut on such river, harbour, or water, in such proportions as the Local Government Board thinks just and shall order.'

For the purpose of obtaining payment from any contributory sanitary district of the sum to be contributed by it, such board of guardians shall issue its precept to the sanitary authority of each such contributory district, requiring them within a time limited by the precept to pay the amount therein mentioned to the person therein specified. 'Any contribution due from any sanitary authority under this section shall be a debt due from them, and may be recovered accordingly, such contribution being deemed expenses of such sanitary authority incurred by them in carrying into effect the provisions of this Act.'

The board of guardians and their officers have the same power of entry under section 151 of the Irish Act as is given to sanitary authorities and their officers in England by section 137 of the English Act of 1875.

As to charges payable for medical attendance on board vessels in compliance with these regulations, the provisions of section 152 of the Irish Act correspond with those of section 138 of the English Act, except that while in England the poor-law medical officer is entitled to charge at the general rate of his allowance for services for the union or place for which he is appointed, in Ireland the medical officer of health is to charge at a rate to be fixed by the Local Government Board.

The same power to combine two or more boards of guardians for the purposes of the provisions relating to the prevention of epidemic diseases is given in the case of sanitary authorities by the Irish Act as by the English Act, and the provisions of the English and Irish Acts

[1] By section 3 of the Rules Publication Act, 1893 (56 & 57 Vict., c. 66), all statutory rules made after December 31, 1893, shall forthwith after they are made be sent to the Queen's printer of Acts of Parliament, and shall in accordance with regulations made by the Treasury be numbered and (save as provided by the regulations) printed and sold by him. Where any statutory rules are required by any Act to be published or notified in the Gazette, a notice in the Gazette of the rules having been made, and of the place where copies of them can be purchased, is declared to be sufficient compliance with such requirement. The regulations may, *inter alia*, determine the classes of cases in which the exercise of a statutory power by any 'rule-making authority' constitutes or does not constitute the making of a statutory rule within the meaning of the section, and may provide for the exemption from the section of any such classes.

as to penalties for violating or obstructing the execution of the regulations are identical.

The provision contained in section 150 of the Public Health (Ireland) Act, 1878, to the effect that regulations made under section 149 shall be superintended and carried into effect by the board of guardians is expressly dealt with under the Epidemic and other Diseases Prevention Act of 1883, section 3 of which provides that the Local Government Board may direct any urban sanitary authority to see to the execution of such regulations or any of them, and the Cholera, &c., Prevention (Ireland) Act, 1884, provides for the manner in which an urban sanitary authority charged with the execution of such regulations may assess the expenses incurred.

46 & 47 Vict., c. 59.

47 & 48 Vict., c. 69.

The Local Government Board for Ireland probably would entrust to important urban authorities the execution of the regulations intended to deal with so serious an emergency as the presence of cholera amongst inland populations and the populations of important commercial ports.

Section 2 of the Epidemic and other Diseases Prevention Act, 1883, enables sanitary authorities in Ireland to borrow for the purposes named in the regulations which may be made under section 149, and also enables the Board of Public Works in Ireland to lend money to such authorities as if such purposes were works for which loans may be granted under the Irish Public Health Act, 1878, without any preliminary local inquiry if it appear to the Local Government Board desirable.

XXIII. MORTUARIES AND CEMETERIES

Power of sanitary authorities to provide mortuaries, &c. (Public Health (Ireland) Act, 1878, Sec. 157).

The provisions in the Irish Public Health Act relating to mortuaries are similar to those contained in the English Act, the only difference being that referred to under the head of 'Infectious Diseases and Hospitals' (page 377).

The Public Health (Interments) Act, 1879, does not apply to Ireland, and for the powers of sanitary authorities in their capacity as burial boards in respect to cemeteries reference may be made to Part VII. (page 392).

XXIV. DISUSED BURIAL GROUNDS

The powers and duties of burial boards in Ireland in regard to disused burial grounds will be found in Part VII.

The Local Government Act, 1858, Amendments Act, 1861, referred to in the preceding article relating to the English law on the subject, does not extend to Ireland, nor does the Disused Burial Grounds Act, 1884, as amended by the Open Spaces Act, 1887. In other respects the powers given in this respect by the Open Spaces Acts, 1877 to 1890, apply equally to sanitary authorities in Ireland[1] as in England, and the bye-laws for the regulation of burial grounds in Ireland under these Acts will be subject to the provisions respecting bye-laws contained in sections 219 to 223 of the Public Health (Ireland) Act, 1878, the penalties imposed thereby being recoverable in a summary manner.

[1] But see question as to powers in this respect of a rural authority in Ireland, *ante*, p. 377.

XXV. MEDICAL OFFICERS, SURVEYORS, AND INSPECTORS OF NUISANCES

Administration of the Public Health Acts.

The machinery provided for the administration of the Public Health (Ireland) Act, 1878, and subsequent Acts bearing upon the public health, differs in some important respects from that employed in England. For purposes of medical relief and vaccination each poor law union in Ireland is divided into dispensary districts. The average size of such district is 28,000 statute acres, the average population is 6,500, and there are 721 dispensary districts and 810 medical officers. Section 11 of the Public Health (Ireland) Act, 1878, provides that every medical officer of a dispensary district (who must be a duly qualified medical practitioner) shall be a sanitary officer for such district or for such part thereof as he shall permanently be in charge of under the title of 'medical officer of health,' with such additional salary as the sanitary authority thereof may determine with the approval of the Local Government Board; and every sanitary authority, whether urban or rural, shall appoint such other sanitary officers, including a medical superintendent officer of health when deemed necessary, as the Local Government Board shall in each case direct, with such salaries or additional salaries as the said sanitary authority may determine with the approval of the Local Government Board. The section further provides that the Local Government Board shall assign to the medical officers of health, and to the other sanitary officers if any, and to the medical superintendent officer of health, if such an officer be appointed for the sanitary district, their respective duties and functions in the discovery, or inspection, or removal of nuisances, in the supply of pure water, in the making or repairing of sewers and drains, or in generally aiding in the administration of the sanitary laws, within the district.

It will be observed that the principal sanitary responsibilities in connection with matters relating to public health are in Ireland placed upon the dispensary medical officers, who are, by the Act of 1878, created *ex-officio* medical officers of health for their respective districts. In addition to the medical officers of health the Local Government Board for Ireland under their sanitary orders require each rural sanitary authority, when directed by them, to appoint a consulting sanitary officer or a medical superintendent officer of health, and for either of these posts the medical officer of the union workhouse, or any other duly qualified medical practitioner, is declared to be eligible. The officers in England called inspectors of nuisances are in Ireland known as sanitary sub-officers, and for the post of sanitary sub-officer the relieving officers of the several unions or the rate collectors are deemed eligible. In practice the relieving officers are generally appointed sanitary sub-officers for their relief districts, but in some few cases persons have been appointed who hold no other appointment.

At the period when the sanitary administration of rural districts (viz., the area of each poor law union exclusive of the area of any urban sanitary district included in such union) was being organised, the Treasury notified that they would consent to an addition being made to the salaries of the respective officers of the rural sanitary authority not exceeding one-fourth of the existing salaries, and that of this addition they would recoup one-half. The practical effect of this notifica-

tion has been that in the general majority of cases the rural sanitary authorities have, as a rule, only added one-fourth to the existing salaries; in some few cases they have given more, but in many instances they have granted less than the Treasury scale. The average salary of a medical officer of health as dispensary medical officer amounts to about 112*l.* a year, and the sum added for his sanitary services has ranged from 15*l.* to 25*l.* a year. The sanitary sub-officers' salaries in respect to their sanitary duties have not exceeded as a general rule about 15*l.* or 20*l.* a year, and in many instances a merely nominal addition to the salary of the relieving officer has been voted by the guardians acting as the rural authority. As the dispensary medical officers depend to a large extent for their maintenance upon the private practice they can obtain in their districts, and as the relieving officers are the officers of the guardians, it is not difficult to understand that for such small additions to their salaries these officers have no strong inducements held out to them to display such an amount of activity in the discharge of their public health duties as may possibly offend some of the persons upon whose goodwill a great deal may depend. No officer charged in Ireland with the administration of the public health in the rural districts is, like the medical officer of health for an English district, independent of private practice or placed in such a position as would enable him to disregard personal influences in the discharge of his duties.

Sanitary orders of the Local Government Board.

The Local Government Board for Ireland have issued, in pursuance of powers vested in them by section 11 of the Public Health (Ireland) Act, 1878, five sanitary orders regulating the appointment, tenure of office, and duties of sanitary officers: order no. 1, relating to rural sanitary districts consisting of entire unions; no. 2, relating to rural sanitary districts consisting of parts of unions of which other parts are urban sanitary districts; no. 3, relating to urban sanitary districts; no. 4, relating to the urban sanitary districts of Belfast, Cork, and Limerick; and no. 5, relating to the city of Dublin urban sanitary district.

By orders nos. 1 and 2 rural sanitary authorities are to appoint:—

(1) So many sanitary sub-officers as the sanitary authority shall, with the consent of the Local Government Board, determine; and the relieving officers of the union and the collectors of poor rates shall be alike eligible for the office of sanitary sub-officer or any other person who may be approved by the Local Government Board; (2) when directed by the Local Government Board, one consulting sanitary officer, or one medical superintendent officer of health; for either of these offices every medical officer of the union, including the workhouse medical officer or officers, shall be eligible, and also, subject to the approval of the Local Government Board, any other duly qualified medical practitioner; and (3) an executive sanitary officer, for which office the clerk of the union, or any assistant of the clerk appointed by the guardians, shall be eligible, or any other person who may be approved by the Local Government Board.

It is further provided that every officer appointed by the sanitary authority shall continue to hold office for such period as the sanitary authority may, with the approval of the Local Government Board, determine, or until he die, or resign, or be removed by such sanitary authority with the assent of the Local Government Board, or by the Local Government Board; and that the sanitary authority shall, upon

the occurrence of any vacancy in any of the offices therein mentioned, cause the same to be reported to the Local Government Board, and shall, unless otherwise directed by the said Board, proceed to a new appointment.

All consents, approvals, assents, directions, and requisitions of the Local Government Board, touching the appointment of sanitary officers and their tenure of office, shall be signified by the Local Government Board to the sanitary authority by letter, and need not be embodied in any order under the seal of the Board.

By order no. 3 urban sanitary authorities are to appoint: (1) so many sanitary sub-officers as the sanitary authority shall, with the consent of the Local Government Board, determine; (2) when directed by the Local Government Board, they are to appoint one consulting sanitary officer, or one medical superintendent officer of health, who shall be a duly qualified medical practitioner; and (3) an executive sanitary officer, with such qualification as the sanitary authority shall, with the consent of the Local Government Board, determine.

Order no. 4 provides that in the case of Belfast, Cork and Limerick, the urban sanitary authority shall appoint: (1) so many sanitary sub-officers as the sanitary authority shall, with the consent of the Local Government Board, determine; (2) one medical superintendent officer of health, who shall be a duly qualified medical practitioner; and (3) an executive sanitary officer, with such qualification as the sanitary authority shall, with the consent of the Local Government Board, determine.

Under order no. 5 the urban sanitary authority of the city of Dublin are to appoint: (1) so many sanitary sub-officers as the sanitary authority shall, with the consent of the Local Government Board, determine; (2) one consulting sanitary officer, and one medical superintendent officer of health, both officers to be duly qualified medical practitioners; and (3) an executive sanitary officer, with such qualification as the sanitary authority shall, with the consent of the Local Government Board, determine.

The same conditions as to the tenure of office and the signification of consents, etc., by the Local Government Board apply in the foregoing cases as are prescribed in the case of rural sanitary districts.

The duties of the several sanitary officers are defined in the orders to be the following:—

1. Every sanitary sub-officer shall, by inspection of the district for which he is appointed, keep himself informed in respect of any nuisances existing therein that require abatement under the sanitary Acts, and if he shall receive notice of the existence of any nuisance within the district, he shall, as soon as practicable, visit the place and inquire into such alleged nuisance; and when he finds any matter demanding, in his opinion, attention from the medical officer of health of the dispensary district in which the same occurs, he shall notify it forthwith to the medical officer of health in writing—specifying the nature of the case, the situation of the premises, and the name of the occupier or owner—in the prescribed form, and shall preserve a copy thereof in duplicate; and he shall submit to the sanitary authority, at each weekly meeting, the duplicates of the reports which he has made to the medical officer of health during the preceding week, or an abstract thereof, and he shall also report to the sanitary authority any

other matter affecting or threatening to affect injuriously the public health within his district.[1]

2. Every medical officer of health who shall have been apprised officially by the sanitary officer,[2] or shall otherwise become cognisant of any matter demanding his attention, shall, as soon as practicable, visit the place; and if, after due inspection, he finds such matter to involve danger to public health, he shall report thereon to the sanitary authority, in the form prescribed, showing the source from which he received the information, and the date thereof, and the date of his visit of inspection; he shall also give a sufficient description of the nature of the case, and the remedy which he recommends to be adopted, and shall preserve a duplicate of every such report.

3. Every medical officer shall inform himself, as far as practicable, respecting all influences affecting or threatening to affect injuriously the public health within the district in his charge; and shall from time to time, as occasion may require, report on the subject to the sanitary authority, and recommend the measures which, in his opinion, should be adopted for the protection or improvement of the public health in such district.

4. Every consulting sanitary officer (if such an officer be appointed for the sanitary district) shall attend meetings of the sanitary authority, whenever required to do so, and shall advise them on all matters and proceedings requiring medical knowledge and advice in the administration of the sanitary laws.

5. Every medical superintendent officer of health (if such an officer be appointed for the sanitary district) shall discharge all the duties imposed on the consulting sanitary officer, and in addition to such duties shall perform the following duties—that is to say, he shall report monthly to the sanitary authority on the general sanitary condition of the sanitary district, and on the discharge of their duties by the medical officers of health and sanitary sub-officers of the district.

6. Every executive sanitary officer shall attend the meetings of the sanitary authority, and shall take their directions from time to time on the sanitary business of the district; and on the reports of the sanitary officers, and on all proceedings arising thereon; and shall, so far as may be requisite, give instructions for the prompt and correct execution of all such orders and directions, and report on such execution, or on any neglect or failure therein which may come to his knowledge.

7. Every medical officer of health and sanitary sub-officer of the district shall attend meetings of the sanitary authority whenever required to do so, and shall assist in all proceedings in which his assistance may be required.

8. Every medical officer of health, and every other officer appointed

[1] In the case of the urban sanitary districts of Belfast, Cork, Limerick, and Dublin, the following regulation is substituted for that in the text:—'Every sanitary sub-officer shall, by inspection of the district for which he is appointed, keep himself informed in respect of any nuisances existing therein that require abatement under the sanitary Acts, and if he shall receive notice of the existence of any nuisance within the district, he shall, as soon as practicable, visit the place and inquire into such alleged nuisance; and when he finds any matter affecting or threatening to affect injuriously the public health within his district, he shall notify it to the sanitary authority in writing.'

[2] In the orders relating to Belfast, Cork, Limerick, and Dublin the words 'by direction of the sanitary authority' are substituted for the words 'by the sanitary sub-officer.'

under the orders shall, in matters not specifically provided for therein, observe and execute the instructions of the Local Government Board, and all the lawful orders and directions of the sanitary authority applicable to his office.

9. The proceedings of the sanitary authority shall be recorded by the executive sanitary officer, and a copy of such record shall be transmitted by him to the Local Government Board as soon after each meeting as practicable.

With regard to statistics of disease the orders prescribe that it shall be the duty of the medical officers of health, and of the consulting sanitary officer or medical superintendent officer of health (if such an officer be appointed to the sanitary district), to furnish to the Local Government Board such statistical returns of sickness and disease as shall from time to time be required from them respectively.

Number of sanitary officers in Ireland.

The number of sanitary sub-officers in Ireland is 590; 129 being in urban districts, and 461 [1] in rural districts; the number of consulting sanitary officers and medical superintendent officers of health is 140, being 35 urban and 105 rural; and the number of executive sanitary officers 226, being 67 urban and 159 rural. These, with 810 medical officers of health, make up a total of 1,766 sanitary officers at present engaged in the administration of the sanitary laws in Ireland.

Surveyors.

The Irish Public Health Act does not provide for the appointment of an officer to be named 'surveyor to the sanitary authority,' but in many towns and boroughs the governing bodies have under other Acts the power of appointing town or borough surveyors, and there is nothing to prevent a sanitary authority employing a surveyor temporarily in order to execute any special work authorised by the Public Health Acts, such employment being incidental to the carrying out of the undertaking.

No power given to the sanitary authorities to combine for the appointment of sanitary officers.

There is no provision in the Irish Public Health Act similar to that contained in section 191 of the English Act of 1875, enabling sanitary authorities to combine for the appointment of sanitary officers, nor does there exist in Ireland an office similar to that of county medical officer of health, as the Local Government Act, 1888, does not extend to that country.

Parliamentary grants towards salaries of sanitary officers.

Parliamentary grants are annually made in recoupment of portion of the salaries of sanitary officers. By section 11 of the Irish Public Health Act salaries are divided into two classes, 'new' and 'additional,' and all cases in which the salary is not additional to any other salary received by an officer for acting in any capacity under the sanitary authority is to be treated as a 'new' salary. The following maximum scale of additional salaries has been approved by the Treasury:—

1. For consulting sanitary officers one-third of the 'existing' salary.

2. For executive sanitary officers, Medical officers of health, Sanitary sub-officers } One-fourth of the 'existing' salary.

The amount of any new salary or addition to any new salary is determined by the Treasury in any individual case of that description,

[1] Of these 461 sanitary sub-officers, 399 are also relieving officers, of whom there are 429 in the several poor-law unions in Ireland.

and the proportion of the new and additional salaries recouped to local funds is one-half, and is payable half-yearly.

Officers concerned in contracts.

The Irish Act contains no provision prohibiting the officers of the sanitary authority from being concerned in contracts made with the authority for any of the purposes of the Act, and the Public Health (Members and Officers) Act, 1885, does not extend to Ireland.

The Public Bodies Corrupt Practices Act, 1889, however, does apply to Ireland as well as to England.

XXVI. POWERS IN RELATION TO PROMOTION AND OPPOSITION OF BILLS IN PARLIAMENT

51 & 52 Vict., c. 53.

The provisions of the Borough Funds (Ireland) Act, 1888, which applies to the governing bodies of municipal towns, are similar to those contained in the Borough Funds Act, 1872. In Ireland, however, the consent of the Local Government Board for Ireland, and of the Chief Secretary, takes the place of the consent of the English Local Government Board, and of the Secretary of State; and instead of the consent of the owners and ratepayers of the district to expenses being incurred in promoting or opposing a Bill in Parliament, in Ireland the approval of the persons qualified to vote at an election of the members of the governing body of the district is requisite.

Under the Municipal Local Bills (Ireland) Act, 1888, when, in the judgment of a municipal corporation it is expedient for the corporation to promote any local or personal Bill or Bills in Parliament, for the purpose only of consolidating existing debts and of creating new stock within the limits of existing borrowing powers, or of borrowing powers hereafter conferred by Parliament, the corporation may apply the borough fund, borough rate, or other the public funds or rates under the control of such corporation, to the payment of the costs and expenses attending the same.

No payment, however, to any member of a municipal corporation for acting as counsel or agent in promoting any such Bill can be made.

No expense in promoting any Bill or Bills in Parliament shall be so charged, unless incurred in pursuance of a resolution of an absolute majority of the whole number of the corporation at a meeting of the corporation after ten clear days' notice by public advertisement of such meeting, and of the purpose thereof, in some local newspaper published or circulating in the municipal borough, such notice to be in addition to the ordinary notices required for summoning such meeting, nor unless such resolution shall have been published twice in some newspaper or newspapers circulating in the municipal borough; and no further expense shall be incurred or charged after the deposit of the Bill, unless the propriety of such promotion shall be confirmed by such absolute majority at a further special meeting of the corporation to be held in pursuance of a similar notice not less than fourteen days after the deposit of the Bill in Parliament.

It is doubtful whether the provisions of this Act will now be put into operation, inasmuch as where an urban sanitary authority adopt

53 & 54 Vict., c. 59, s. 52.

Part V. of the Public Health Acts Amendment Act, 1890, they may consolidate their loans and create stock subject to the consent of the Local Government Board for Ireland and to the regulations made by that Board relating to the issue of stock.

PART III

UNIONS OF URBAN AND RURAL SANITARY DISTRICTS AND AUTHORITIES

There is no provision in the Irish Public Health Act corresponding to section 285 of the English Act of 1875 enabling sanitary authorities to combine under agreements for the doing of certain things and execution of certain works. One sanitary authority may, however, with the sanction of the Local Government Board for Ireland, supply the sanitary authority of an adjoining district with water, or agree with such authority for the use of their sewers.

The provisions of the English and Irish Acts as to united districts and joint boards are similar, but in Ireland these provisions are extended so as to include joint burial boards for united burial board districts.

PART IV

PORT SANITARY AUTHORITIES

In Ireland there are no port sanitary authorities such as exist on the coasts of England. It was probably through an oversight that the power conferred by section 287 of the Act of 1875 was not included in the Irish Public Health Act of 1878.

PART V

COUNTY COUNCILS

There are no county councils in Ireland.

PART VI

PARISH COUNCILS AND PARISH MEETINGS

The provisions of the Local Government Act, 1894, do not apply to Ireland.

PART VII

BURIAL BOARDS AND BURIAL ACTS

Public Health (Ireland) Act, 1878, ss. 160–199.

THE enactments now in force dealing with burial-grounds are those contained in the Public Health (Ireland) Act, 1878, which repealed the old Burial Ground Acts of 1856 and 1860, and in the Public Health (Ireland) Amendment Act, 1879; but they are expressly declared not to apply to any private and exclusive family mausoleum or burial-place not being within the limits of any public burial-ground. The provisions as to providing new grounds are permissive throughout. Efforts were made during the passage of the Public Health Bill through Parliament to make some of them compulsory, but the proposition was rejected, burial rights of all kinds being regarded with great jealousy. Under the Irish Church Act, 1869, the Church Temporalities Commissioners were required to vest certain burial-grounds coming within the scope of that statute in the board of guardians of the union in which the same might be situated, and thenceforth the responsibility of fencing it, if necessary, keeping it in order, and regulating future interments was cast upon the guardians. It sometimes happened, however, that the burial-ground so disposed of, although situated in the union, belonged to a place within the limits of the jurisdiction of some other burial board, which consequently escaped the liability of maintaining it. This has now been remedied, and all burial-grounds vested by the Commissioners of Church Temporalities in boards of guardians, and all burial-grounds belonging to or vested in any burial board under the repealed Burial Ground Acts of 1856 and 1860, are transferred to and vested in the burial board constituted under the Public Health Act for the district in which such burial-grounds are situated. Any burial-ground, however, which had been previously acquired by any burial board under the Burial Ground Acts or of any local Act, situated wholly or in part without the limits of the district of such burial-board, is to be deemed to be situated wholly within the limits of the district of the burial board for the purposes of the Public Health Act.

32 & 33 Vict., c. 42, s. 26.

I. ORDERS FOR CLOSING BURIAL-GROUNDS, ETC.

On representation duly made, Local Government Board may restrain opening of new burial-grounds and order discontinuance of burials in specified places. Public Health (Ireland) Act, 1878, Sec. 162.

It is provided that, in case it should appear to the Local Government Board, upon representation made to them or otherwise, that for the protection of the public health the opening of any new burial-ground in any city or town, or within any other limits in Ireland, save with the approval of the Local Government Board, should be prohibited, or that for the protection of public health or for the maintenance of public decency, or to prevent a violation of the respect due to the remains of deceased persons, burials in any city or town, or within any other limits, or in any burial-ground or places of burial in

Ireland, should be wholly discontinued, or should be discontinued subject to any exception or qualification, it shall be lawful for the Local Government Board to order that no new burial-ground shall be opened in any city or town, or within such limits, without such previous approval, or that, after a time mentioned in the order, burials in any such city or town, or within such limits, or in such burial-grounds or places of burial, shall be discontinued wholly, or subject to any exceptions or qualifications mentioned in such order, and so from time to time as circumstances may require.

Power to direct local inquiry (Sec. 163).

When any such representation shall have been made, or otherwise as the occasion may require, the Local Government Board may, if they think fit, direct an inquiry to be made in the place or district in which the burial-ground or place of burial is situated in respect of any matter in relation thereto. Notice of the time, place, and subject of the inquiry is to be published once in the 'Dublin Gazette,' and affixed on the doors of the church and chapel of, or in some other conspicuous place within, the parish in which the burial-ground is situated, three weeks before the time of holding the inquiry. One of the inspectors of the Local Government Board may hold the inquiry, and upon receipt of his report as to the result of, and of the evidence taken at, the inquiry the Local Government Board may make such order in the case as to them may seem meet, and may afterwards vary such order as occasion may require.

Instructions to inspectors when holding inquiries.

The following instructions were issued on March 4, 1890, by the Local Government Board to their medical inspectors to guide them when holding inquiries respecting the condition of the burial-grounds :—

'The Board think that in the first instance evidence should be obtained on oath as to whether the requirements of Section 163 with respect to the posting of the notices of the inquiry have been complied with. This evidence is important, and until it is shown that the necessary preliminaries have been properly carried out no evidence should be taken as to the condition of the graveyard.

'The next stage in the proceedings is to take evidence as to the state of the burial-ground, and the nature of this evidence must be left to your discretion as from your knowledge of the statements contained in the representation and the previous correspondence you will probably have given notice to attend to the persons capable of affording trustworthy testimony respecting the condition of the graveyard.

'With respect to claims for right of interment, it has been found that the questions put to witnesses vary considerably at inquiries held by different inspectors, and with a view to securing greater uniformity in this respect in future the Board have to suggest to you that each applicant for reservation of right of interment should be required to supply satisfactory information on the following points before you recommend his name to be included in the schedule of exceptions to the order :—

1. What title—whether by purchase or by usage, and, if by usage, whether any other persons have equal rights in the grave. If obtained by purchase, documentary evidence ought to be forthcoming. If exclusive right is claimed, the nature of the claim should be fully set forth.
2. Precise size of grave or vault—any tombstone ?—any inscription ?—and if so, what is the degree of relationship of the applicant to the persons whose names are inscribed ?

3. If there be a church in the graveyard which is actually used for Divine worship, and the right of interment is claimed in a vault, it will be necessary to ascertain whether the vault is under or adjoining any part of the church, and in the case of all vaults care should be taken to ascertain whether the opening of them would disturb the vaults or graves of other persons.
4. What is the number of persons already interred in the grave claimed? What was the date of the last interment? Was the applicant present thereat? If not, some person must attend who was present, and can swear to the depth of earth over the coffin, measuring from the natural surface of the ground.
5. In considering claims attention should be given to the nature of the soil. Human remains and the coffins in which they are enclosed are preserved for many years (from ten to fourteen) in wet and undrained clayey soils, whereas skeletons alone remain after an interval of from seven to ten years in dry, sandy, gravelly and well-drained cemeteries. It must be borne in mind that no unwalled grave should be reopened within fourteen years after the burial of a person above twelve years of age, or within eight years after the burial of a child under twelve years of age, unless to bury another member of the same family, and if opened sooner to bury a member of the same family a layer of earth not less than one foot in depth should be left undisturbed above the previously buried coffin. It is well to bear in mind that coffins vary in depth from fourteen to eighteen inches. Sixteen inches may be taken as the average.
6. Where rights are proposed to be reserved in respect of a family group whose ages do not vary much, it is to be borne in mind that if several lives expire within a short period of each other it may not be possible to bury all the bodies in the space claimed.
7. It is always expedient, when possible, to reserve to a widow or widower the right to be interred in the grave of a deceased husband or wife.
8. When a graveyard is surrounded by inhabited dwellings, or is situated within a town, a very strong case should be established before admitting claims of exemption. The evidence given in the reports on intra-mural sepulture in a series of parliamentary papers published from 1843 to 1850 clearly established that living in the vicinity of graveyards undermines the constitution, and when any epidemic touched the locality the people fell before it. Thus cholera has always attacked persons living in the vicinity of crowded graveyards.

'The Board think that attention to the points indicated will greatly facilitate them in considering the question of closing burial-grounds against future interments, especially in cases where the claims for reservation are numerous.

'In some cases burial boards forward representations to the Local

Government Board in favour of closing overcrowded graveyards without having taken any steps under Section 172 to provide the public with burial-ground accommodation as a substitute for the graveyard it is proposed should be closed. This is a point which should not be lost sight of by an inspector holding an inquiry, and if no new burial-ground has been provided it would be of great assistance to the Local Government Board if he would deal with this aspect of the matter in his report, pointing out whether it might not be possible for the burial board to extend the existing graveyard; he should also ascertain and state the space available for further interments in existing graveyards which may be within reasonable reach of the persons who have resorted to the burial-ground which formed the subject of inquiry.'

Postponement of order for discontinuance of burials (Sec. 164).

The time appointed for the discontinuance of burials may be postponed by the Local Government Board, and the order may be otherwise varied by the Board whether the time thereby appointed for the discontinuance of burials or other operation of such order shall or shall not have arrived.

Orders not to extend to certain burial-grounds unless expressly mentioned (Secs. 165, 166).

The orders referred to in the foregoing paragraphs are not to extend to any burial-ground of Quakers, or to the burial places of French Protestants situated in Merrion Row and Peter Street in the city of Dublin, unless the same are expressly mentioned in the order.

Penalty on persons burying contrary to the provisions of orders (Sec. 167).

Every person who buries any body, or in anywise acts or assists in the burial of any body in violation of the provisions of the above-mentioned orders may, on summary conviction, be fined a sum not exceeding 10*l*.

Saving of certain rights to bury in vaults (Sec. 168).

Notwithstanding any such order, where, by usage or otherwise, there was on August 8, 1878, any right of interment in or under any church or chapel affected by such order, or in any vault of any such church or chapel, or of any churchyard or burial-ground affected by such order, and where any exclusive right of interment in any such burial-ground has been purchased or acquired before July 29, 1856, the Local Government Board, on application being made to them, and on being satisfied that the exercise of such right is not injurious to health, may grant a licence for the exercise of such right, during such time and subject to such conditions and restrictions as the Local Government Board may think fit to prescribe.

New burial-grounds not to be opened contrary to order (Sec. 169).

Where by any order of the Local Government Board it is ordered that no new burial-ground shall be opened in any city or town or within any limits mentioned in the order, without the previous approval of the Board, no new burial-ground or cemetery shall be provided and used in such city or town, or within such limits, without such previous approval.

Binding effect of orders in Council made under Burial Ground Acts (Public Health (Ireland) Amendment Act, 1879, Sec. 3).

All orders made by the Lord Lieutenant in Council under the Burial Grounds Acts are as effectual for all purposes as if they were orders of the Local Government Board made under the powers of Part III. of the Public Health Act relating to burial-grounds. Where any burial-ground is closed under the provisions of the Burial Grounds Acts or the Public Health Act, and a new burial-ground is provided in place thereof, the liabilities attaching to the burial-ground so closed are to be transferred to the new burial-ground, the revenues of which shall be liable for the same in like manner as the revenues of the closed burial-ground were liable.

Transfer of liabilities (Public Health (Ireland) Act, 1878, Sec. 176).

II. CONSTITUTION OF BURIAL BOARDS

Public Health (Ireland) Act, 1878, Sec. 160.

In Ireland the sanitary authority of each sanitary district is constituted the burial board of the district, except when the sanitary district is a town or township having commissioners under a local Act. In this case the guardians of the poor of the union in which the town or township is situated are the burial board for the district, or the part of it situated within the union of which they are the guardians.

The burial board, in carrying into execution that portion of the Public Health Act relating to burial-grounds, is 'subject to the control and direction' of the Local Government Board, but this is a mere general power, and the burial board's duties are not subject to those provisions of the Act which relate to the procedure to be taken in case of default on the part of a sanitary authority as such in the discharge of its duties.

III. POWERS AND DUTIES OF BURIAL BOARDS

Burial board may appoint and remove officers (Sec. 190).

The burial board may appoint and may remove at pleasure a clerk and such other officers and servants as may be necessary for the business of the board in respect of or for the purposes of the burial-ground, at reasonable salaries, wages, and allowances. For the purpose of regulating the duties of these officers, the provisions of the Commissioners Clauses Act, 1847, with respect to the 'appointment and accountability of the officers of the commissioners' are incorporated.

Upon requisition meeting of board to be convened to determine whether a burial-ground shall be provided (Sec. 172).

In any district in which no burial-ground has been closed, the clerk to the burial board shall, on the requisition in writing of ten or more persons assessed for the relief of the poor in the district, or upon a requisition in writing of two or more members of the burial board, convene a special meeting of the burial board for determining whether a burial-ground shall be provided under the Public Health Act for the district, or any part of it; and if a majority of such meeting shall resolve that a burial-ground shall be provided under the Act, such new burial-ground shall be provided. This applies also to providing an addition to an existing burial-ground.

When burial-grounds closed, board to provide suitable burial-grounds (Sec. 173).

Consent of owners of houses to new burial-grounds where necessary (Sec. 174).

Whenever any burial-ground shall have been closed in a burial board district by order, the burial board may, if it shall seem necessary or expedient, forthwith proceed to provide a suitable and convenient burial-ground in place of it. A burial-ground may be provided under the Act either within or without the limits of the burial board district, and for the purposes of the Act shall be considered as if within such limits; but no ground not already used as or appropriated for a cemetery shall be appropriated as a burial-ground or as an addition to a burial-ground under the Act, nearer than one hundred yards to any dwelling-house without the consent in writing of the owner, lessee, and occupier of such dwelling-house.

Board may purchase land for cemeteries or contract with cemetery companies (Sec. 175).

The burial board may purchase by agreement any lands, and buildings thereon, for the purpose of forming a burial ground, or for making additions to any burial-ground formed or purchased under the Burial Ground Acts or the Public Health Act; and may purchase from a company or persons entitled thereto any cemetery or cemeteries, or part or parts thereof, subject to subsisting rights. The burial board, in lieu of providing a burial-ground, may contract with any such company or persons entitled as aforesaid for the interment in such cemetery or cemeteries, either in an allotted part or otherwise, of

the bodies of persons who would have had rights of interment in the burial-grounds of the district or place for which the burial board act.

Power to purchase lands compulsorily (Secs. 202, 203).
Additions to existing burial-grounds (Sec. 184).

The burial board may also by provisional order be empowered to put in force the provisions of the Lands Clauses Acts relating to the purchase of land otherwise than by agreement. A burial board may contract for and purchase any lands and buildings thereon for the purpose of making additions to any burial-ground, although the burial-ground shall not have been formed or purchased under the authority of any Act of Parliament, provided that such burial-ground is not attached or contiguous to any church or chapel or place of worship, actually used for divine worship, nor is situated in any private demesne. The burial board shall have and may exercise, with respect to the acquisition and management of these additions all the powers and authorities, and be subject to all the provisions contained in the Public Health Act with respect to the acquisition and management of new burial-grounds. Any burial board, with the sanction of and subject to regulations approved by the Local Government Board, may let any land purchased by and vested in them under the Public Health Act which has not been consecrated and in which no body has been at any time interred, and which is not for the time being required for the purposes of a burial-ground; but power must be reserved to the burial board to resume any such land which may be required for the purposes of a burial-ground upon giving six months' notice.

Board may let land not required for burials (Sec. 195).

Sale of land (Sec. 202).

Any lands acquired by the burial board in pursuance of any powers contained in the Public Health Act, and not required for the purposes for which they were acquired shall, except where otherwise expressly provided for by that Act (unless the Local Government Board otherwise direct), be sold at the best price that can be obtained for the same, and the proceeds of the sale applied towards the discharge of loans borrowed under the Act or carried to the account of the fund or rate applicable to the general purposes of the Act.

Appropriation of lands for purposes of Act (Sec. 192).

The guardians of any union or the council of any borough may appropriate for the purposes of burial-grounds under the Public Health Act any land belonging to the guardians of the union or to the body corporate of the borough or vested in any trustees or others for the general benefit of the union or borough respectively, or any specific charity; provided that when any land so appropriated is subject to any charitable use it shall be taken only on such conditions as the Chancery Division, in the exercise of its jurisdiction over charitable trusts, shall appoint and direct.

Board may lay out and embellish burial-ground (Sec. 183).

A burial board may lay out and embellish any burial-ground subject to their jurisdiction in such a matter as may be fitting and proper. In all cases in which a new burial-ground is provided under the Public Health Act the burial board, with the sanction of the Local Government Board, may divide it, or some part thereof, into certain parts and proportions, to be allotted in such a manner as to the Local Government Board shall seem fit, for the burial of the members of any particular religious denomination. Each such allotment shall, as the case may require, be consecrated according to the rites and by the proper ministers of the religious denomination for which it is set apart.

The burial board are empowered to sell exclusive rights of burial the right of constructing vaults, and the right to erect monuments

Sale of exclusive rights of burial and rights to erect monuments, &c. (Sec. 178).

but such exclusive rights shall not extend in all to a space of one-half of the burial-ground. The burial board may, subject to the approval of the Local Government Board, fix and receive fees and payments in respect of interments in any burial-ground provided by them, and from time to time revise and alter such fees and payments. A table showing the fees and payments must be printed and published, and affixed on some conspicuous part of the burial-ground.

Management of burial-grounds (Sec. 177).

The general management, regulation, and control of the burial-grounds provided under the Burial Grounds Acts or the Public Health Act are, subject to the provisions of the Public Health Act and the regulations to be made thereunder, vested in the respective burial boards providing the same. Any question which may arise touching the fitness of any monumental inscription placed or proposed to be placed in any part or portion of these burial-grounds is to be determined by the proper ministers of the religious denomination to which such part or portion shall have been allotted. At the burials of the bodies of members of any Church or religious denomination, burial service according to the respective rites of such Church or denomination may be performed by the proper ministers of such Church or denomination.

Incorporation of certain provisions of the Cemeteries Clauses Act, 1847 (Sec. 193).

Sec. 171.

The provisions of the Cemeteries Clauses Act, 1847, with respect to the protection of the cemetery are incorporated with the Public Health Act, and are applicable to any burial board under that Act. It is further provided that no animal of any description shall be allowed to graze or to be within the limits of any burial-ground having a sufficient fence; and a court of summary jurisdiction may order the owner of any animals so found to pay as a fine a sum not exceeding 2*s.* and not less than 1*s.*

Conveyance of bodies to burial-grounds (Sec. 179).

Subject to the provisions of the Public Health Act and to any regulations made thereunder, a burial board may make such arrangements as they may from time to time think fit for facilitating the conveyance of the bodies of the dead from the place of death to any burial-ground subject to the provisions of the Public Health Act; and cemetery companies may undertake and carry into effect any such arrangements.

Places may be provided for reception of bodies until interment (Sec. 180).

Subject to the provisions of the Public Health Act and to any regulations made thereunder any burial board may hire, take, or lease, or otherwise provide fit and proper places in which bodies may be received and taken care of previously to interment, and may make arrangements for the reception and care of the bodies to be deposited therein; and for providing such places burial boards may exercise all the powers vested in them under the Public Health Act for providing burial-grounds.

Owners of burial-grounds may be required by burial board to fence them and keep them in decent order (Sec. 185).

When any burial-ground, not being attached or contiguous to any church or chapel or place of worship actually used for divine worship, nor situated in a private demesne, is without any sufficient fence or is not kept in decent order, the burial board for the district may, by notice in writing to the owner of the burial-ground, require him properly to fence the same or put it in decent order within a specified time—not less than six months. If the notice be not complied with within the time named, the burial board may fence the burial-ground and put it into decent order, and charge the expense of doing so to the rates. If any dispute arise between the burial board and the owner as to the necessity of such notice, or the sufficiency of his compliance, or upon any ground connected with the work so required to be done, such

dispute shall be referred to the Local Government Board, whose decision shall be final. For obtaining convenient access to the burial-ground for the purpose of fencing it or putting it in order, the owner or the burial board, and all persons authorised by them may enter upon the lands adjoining the burial-ground, and any person injured by such entry shall be compensated in the manner provided by the Public Health Act in cases where damage is done in exercise of any of the powers of the Act.

After six months from service of notice, &c., burial board is empowered to fence burial-ground and keep the same in order, and take the management (Sec. 186).

Where the owner cannot be ascertained, or notice cannot be served, the burial board may give notice by public advertisement in some newspaper circulating in the county in which the burial-ground is situated of their intention to fence such burial-ground or put it in decent order, and after the expiration of a specified time—not less than six calendar months—may proceed to carry out the requisite works. When such notice has been given or advertisement published, and the expense of fencing the burial-ground or of putting it in decent order has been defrayed, the burial-ground is brought under the control and management of the burial board, and they are to be deemed the owners of it until they are reimbursed by the owner the expenses incurred by them with interest at 5 per cent. per annum.

Burial boards may accept the management of burial-grounds (Sec. 187).

When the owner of any burial-ground is desirous of putting it under the management of the burial board of the district, the burial board may accept the management. The burial board shall thereupon be deemed the owners of the burial-ground, and shall have and exercise all the powers and authorities of the Public Health Act with respect to the same until the owner, his heirs or assigns, shall repay all expenses incurred by them in securely fencing the ground or putting it in decent order, with interest thereon at 5 per cent.

No corpse to be buried in private grave without consent (Sec. 170).

Where by usage or otherwise any grave, vault, or place of interment in any burial-ground or cemetery, has been the burying-place of and used as such by any family, no corpse of any person not having been a member of such family shall be buried therein without the consent in writing of some immediate relative of the member of such family last interred therein. If any person knowingly acts or assists in any burial contrary to the provisions of this section, every such person is liable on summary conviction to a penalty not exceeding 10*l.* Upon any complaint made under the section the court may make an order for the exhumation and re-interment of the corpse.

Assessments of burial-grounds to local rates (Sec. 194).

No land purchased or acquired for the purpose of a burial-ground (with or without any building erected or to be erected thereon) is while used for such purposes to be assessed to local rates at a higher value or more improved rent than the value or rent at which it was assessed at the time of purchase or acquisition.

Exemption of burials from tolls (Sec. 182).

No funeral procession, or carriage in such procession, and no foot passenger, while going to or returning from the place of interment on the occasion of any interment, are to be held liable to any toll or portage.

Register of burials in every ground provided under the Public Health Act to be kept by burial board (Sec. 191).

All burials within any burial-ground provided under the Public Health Act must be registered in a register-book to be provided by the burial board and kept for that purpose. The clerk, secretary, or registrar to every burial board and cemetery company having charge of any burial-ground is to make, at such times and in such manner as the Local Government Board may direct, a return of the names, addresses, dates of deaths, and causes of death, so far as ascertained, of the

42 & 43 Vict., c. 57, s. 7.

persons whose bodies have been interred in the burial-ground to the registrar of the district in which such persons resided at the dates of their deaths respectively, or to the Registrar-General of Births and Deaths in Ireland, as the Local Government Board shall from time to time order. The clerk, secretary, or registrar of each cemetery company is to be paid for this duty by the sanitary authority such sum as the Local Government Board may direct, not being more than 3*d.* for each separate entry of death. The Local Government Board have, by their orders of November 13, 1879, September 1, 1880, and March 5, 1886, directed that the returns referred to should be made to the district registrar of births and deaths, and that the fee payable to a clerk, secretary, or registrar of a cemetery company should be at the rate of 3*d.* an entry.[1]

Minutes of proceedings of burial board to be kept, also accounts (Sec. 189).

Minutes of all the proceedings of the burial board, with the names of the members who attend each meeting, are to be kept; and the burial board are to provide and keep books in which shall be entered accounts of all sums of money received and paid by the board, and of all liabilities incurred by them, and of the several purposes for which such sums of money are paid and such liabilities incurred. These books are at all reasonable times open to the examination of every member of the burial board and of every person liable to pay poor rates in respect of property within the district, without fee, and copies and extracts may be taken by such persons without payment.

Expenses of burial board (Sec. 234).

Where the burial board are the rural sanitary authority of the district the expenses are paid out of the poor rate of the union, or of any electoral division, or of any townland or townlands situated therein as the Local Government Board shall by order under seal in each case determine, and all moneys borrowed by the burial board of the district, before or after the passing of the Public Health Act, are also secured upon the rates in question.

Where the burial board are the urban sanitary authority of the district, the expenses incurred by the burial board and any money borrowed by them before or after the passing of the Public Health Act, are charged upon and paid out of a separate rate to be levied for such purpose within the district. The urban sanitary authority are further given all such powers for making and levying this rate, as in the case of any borough or improvement rate which the urban authority are authorised to make by the Acts of Parliament under which they are constituted. The burial rate may be levied wholly or partly in the parishes within the urban sanitary district for which any new burial-ground has been provided under the Burial Ground Acts, or may be provided under the Public Health Act, if the Local Government Board by order so direct.

Formation of united burial-ground district (Sec. 12).

The Local Government Board may by provisional order form into a united district for the purpose of providing a burial-ground, sanitary districts, or contributory places in a rural sanitary district or districts, if the sanitary authority of such districts be the burial board; and the

Transfer of burial-grounds (Sec. 207).

Local Government Board may also by provisional order transfer any burial-ground to which the Public Health Act applies from any burial

[1] Special provisions are contained in the Births and Deaths Registration (Ireland) Act, 1880, relative to the registration of deaths before burial, the authorisation of burials before registry of death by order of the coroner upon his holding an inquest, the burial of stillborn children, and cases where coffins contain more than one body.

board to any other burial board, providing for the rights of all persons interested therein, and for the discharge of all liabilities and adjustment of any claims affecting the same.

IV. POWERS OF THE LOCAL GOVERNMENT BOARD AS REGARDS THE REGULATION OF BURIAL-GROUNDS

Local Government Board may make regulations as to burial-grounds (Sec. 181).

The Local Government Board may from time to time make regulations in relation to the burial-grounds and places for the reception of dead bodies previous to interment provided under the Public Health Act for the protection of the public health and the maintenance of public decency, and for the proper registry of interments, and to provide for the imposition and recovery of penalties not exceeding 10*l.* for each offence for the breach or non-observance of such regulations. Burial boards and all other persons having the care of such burial-grounds and places must conform to and obey these regulations.

Under the above enactment the following regulations were made on July 6, 1888, by the Local Government Board:—

'1. Every burial-ground shall be kept sufficiently fenced; and, if necessary, shall be underdrained to such a depth as will prevent water remaining in any grave or vault.

'2. The area to be used for graves shall be divided into grave-spaces, to be designated by convenient marks, so that the position of each grave-space may be readily ascertained. A corresponding map or maps of the burial-ground shall be constantly kept in some convenient place, at or near the burial-ground, and shall be open to the inspection of all persons. On such map or maps every grave-space shall be shown with its distinctive mark inscribed thereon.

'3. The grave-spaces for the burial of persons above twelve years of age shall be at least nine feet long by four feet wide; and those for the burial of children under twelve years of age shall be at least six feet long by three feet wide.

'4. Each grave, when opened for the first interment therein, shall be sunk to the perpendicular depth of eight feet at the least; and every person interring a body in a grave not sunk to such depth shall be liable to a penalty of two pounds sterling.

'5. No interment shall be permitted in any burial-ground, nor shall any dead body be admitted into any place of reception of bodies previous to interment, unless the body be enclosed in a coffin of wood or other sufficiently strong material. Any person presenting a body for interment in violation of this rule shall be liable to a penalty of two pounds sterling.

'6. One body only shall be buried in a grave at one time, unless the bodies be those of members of the same family; and every person interring any body in violation of this rule shall be liable to a penalty of two pounds sterling.

'7. No unwalled grave shall be re-opened within fourteen years after the burial of a person above twelve years of age, or within eight years after the burial of a child under twelve years of age, unless to bury another member of the same family, in which case a layer of earth not less than one foot in depth shall be left undisturbed above the previously buried coffin; but if on re-opening any grave the soil be found to be offensive, such soil shall not be disturbed. In no case shall human remains be removed from the grave. Every person acting

in violation of this rule shall be liable to a penalty of two pounds sterling.

'8. No coffin shall be buried in any unwalled grave, unless the lid or upper surface thereof shall be sunk to a depth of at least four feet below the ordinary level of the ground; and every person acting in violation of this rule shall be liable to a penalty of two pounds sterling.

'9. Any person unlawfully preventing, or attempting to prevent, the interment of any person in a burial-ground, or unlawfully preventing or disturbing the celebration of funeral rites over any person, shall be liable to a penalty of five pounds sterling.

'10. No grave, in which any body has been interred, shall be opened, save for the purpose of interment or the erection of a tombstone or headstone, without the written order of a coroner or justice of the peace of the county, to be previously produced to, and left with, the registrar. Any person violating this rule shall be liable to a penalty of ten pounds sterling.

'11. No body, nor the remains of any body, shall be removed from one place of burial to another, or exhumed (except under the conditions set forth in Rule 10), without a licence from the Local Government Board, and with such precautions as such board may prescribe as the condition of such licence; and any person who shall remove or assist in removing any such body or remains contrary to this rule, or who shall neglect to observe the precautions prescribed as the condition of the licence for removal, shall be liable to a penalty of ten pounds sterling.

'12. A proper registry book (hereinafter referred to as the registry book), made of parchment or vellum, with strong binding and suitable printed pagings, and ruled in columns, with proper printed headings, shall be constantly kept in some convenient place at or near the burial-ground, and shall be open for inspection at all reasonable times; but no person, except the person having the care and management of the burial-ground and in these rules called the registrar, shall be permitted to write in the registry book save as hereinafter mentioned.

'A printed copy of these rules shall be kept constantly affixed to the registry book.

'Any registrar refusing to give inspection of the registry book, as required by this rule, shall be liable to a penalty of five pounds sterling; and any person whatever unlawfully writing in, defacing, altering, or mutilating the registry book shall be liable to a penalty of five pounds sterling.

'13. Before the interment of any person in a burial-ground, or before admission into such place of reception as aforesaid, the registrar shall, after due inquiry as to the facts from some relative of the deceased, or from the person having the direction and management of the interment, cause an entry to be made in the registry book, in plain and legible characters, under its proper headings, and in numerical order, of the Christian and surname, time of death, sex, age, religious persuasion, and occupation or rank in life, of the deceased, together with his or her last place of residence, and condition, as whether "married" or "single," "widower" or "widow," or "the child of A.B. of ," &c. After the interment due entry shall be made under its proper heading of the distinctive mark of the grave; and the signature

of the person having the management of the interment shall be affixed in the last column but one, in token of the accuracy of the foregoing statements; and such signature shall be attested by the signature of the registrar in the last column. Any such person wilfully refusing to give to the registrar information as to the matters aforesaid, or to affix his signature as aforesaid, shall be liable to a penalty of five pounds sterling.

'And we, the Local Government Board for Ireland, in further pursuance of the powers vested in us under and by virtue of the said Act, do hereby enjoin and require all burial boards, and all registrars, clerks, and other persons having the care of such burial-grounds and places for the reception of dead bodies, strictly to conform to and obey these our rules and regulations, of which all persons concerned are directed to take notice, and which are to take effect from the day of the date hereof.'

These regulations are practically the same as those made on January 21, 1870, by the Lord Lieutenant and Privy Council of Ireland under the Burial Ground Act, 1856, which are still in force in respect of burial-grounds provided under that statute. The chief differences are the insertion in the regulations of the Local Government Board of Rule 11 which enables the Local Government Board to issue a licence authorising the exhumation of a body. It has sometimes been found desirable to authorise the disinterment and removal of a body from one portion of a graveyard to another, or to a different graveyard or cemetery. In England the Secretary of State for the Home Department can authorise such a disinterment, but no similar power could heretofore be exercised in Ireland except by the Lord Lieutenant—not by virtue of any power vested in him by statute or otherwise, but as head of the Executive and as having control over any prosecution which might be brought in consequence of the Act. The following words were also inserted after the word 'family' in Rule 7:—'in which case a layer of earth not less than one foot in depth shall be left undisturbed above the previously buried coffin; but if on re-opening any grave the soil be found to be offensive, such soil shall not be disturbed.'

V. DISUSED BURIAL-GROUNDS

Burial board to keep in order closed burial-grounds (Sec. 196).

In every case in which any order has been or shall be issued for the discontinuance of burials in any churchyard or burial-ground not vested in any other person, the burial board must maintain such churchyard or burial-ground in decent order, and do the necessary repair of the wall and other fences thereof; and any costs incurred in so doing are to be deemed to be expenses of the burial board, and be defrayed accordingly, unless there is some other fund legally chargeable with the cost.

PART VIII

THE VACCINATION LAWS

21 & 22 Vict., c. 64; 26 & 27 Vict., c. 52; 31 & 32 Vict., c. 87; 42 & 43 Vict., c. 70.

The most important provisions as to vaccination in Ireland are contained in the Vaccination Acts of 1858, 1863, 1868, and 1879, in certain regulations of the Local Government Board for Ireland set forth in the 'General Rules for the Government of Dispensary Districts and for the Performance of Vaccination,' and in their instructions to vaccinators. The provisions of the statutes dealing with vaccination in Ireland are substantially the same as those contained in the English Acts, and their administration is vested in the guardians of the several poor-law unions; but inasmuch as every board of guardians is a rural sanitary authority, the carrying out of the vaccination laws is in Ireland entrusted to a public authority responsible for and accustomed to deal with matters concerning the public health. In addition to the powers possessed by boards of guardians to enforce the provisions of the compulsory Vaccination Acts, section 147 of the Public Health (Ireland) Act, 1878, enables any registrar or any officer appointed by the guardians to proceed summarily before justices to compel the vaccination of any child under the age of fourteen years. A similar enactment is contained in the English Vaccination Act of 1867, section 31, but it is to be observed that the provision in the Vaccination Acts, imposing a penalty on parents and guardians for failing to produce a child when required to do so by summons under the Acts, will not apply in the case of proceedings under the section of the Irish Public Health Act above mentioned.

Vaccination districts and authorities.

The 159 Unions into which Ireland is divided are further subdivided into 721 dispensary districts in charge of 810 medical officers. Every dispensary medical officer is *ex-officio* a medical officer of health for the district or portion of a district entrusted to his charge, and he acts as public vaccinator of the district for which he is appointed. These medical officers are not obliged to furnish evidence of special training in vaccination, and hence the practice of vaccination in Ireland is not so satisfactory as in England and Wales. Very few medical officers recognise the importance of thorough vaccination, and it is quite the exception to find them acting upon the principles laid down by the English Local Government Board. As a rule public vaccinators in Ireland rarely aim at the production of more than three typical vesicles, and are contented with the production of two vesicles, or even one vesicle. There are no public vaccinators under contract with the guardians, the dispensary medical officer is the only recognised public vaccinator, and he is under an obligation to vaccinate any person presenting himself, or presented for the purpose at his dispensary or at one of the depôts established for vaccination purposes

Vaccination (Ireland) Act, 1858, Sec. 1.

by the boards of guardians. Such depôts are very commonly provided, and remain open to the public during the spring and summer months, the chief dispensaries being open at all times of the year.

Guardians in Ireland do not specially appoint and pay any officer for instituting prosecutions, but they generally instruct the relieving officer of the district in which the defaulters live to summon such defaulters. This measure is not often required, as there is not in Ireland any material difficulty in enforcing compliance with the vaccination laws.

In Ireland a large proportion of the dispensary medical officers act also as registrars of births and deaths for their respective districts, and are therefore aware of the births registered, and of the proportion of the children over three months old remaining unvaccinated, and it is their duty under the rules of the Local Government Board to make quarterly returns to the guardians of the names of defaulters. Where the medical officer of the district does not happen to be registrar, it is the duty of the registrar to furnish him with monthly returns setting forth the names of the children under twelve months of age whose births and deaths have been registered, together with a monthly return of all children registered as vaccinated by private medical practitioners, and he is thus enabled on comparing these lists with the entries in his 'vaccination register' to ascertain, and to report to the board of guardians, the children whose parents or guardians have not presented them for vaccination. The lists of defaulters thus returned to the board of guardians are handed to the relieving officer of the district concerned, whose duty it is to warn the parents of the provisions of the Vaccination Acts. In very few cases is it found necessary to take any further proceedings to compel compliance with the law. 26 Vict., c. 11, s. 23.

I. DUTIES IN RELATION TO VACCINATION IMPOSED ON PARENTS AND OTHER PERSONS HAVING THE CUSTODY OF CHILDREN

Duties of the public as regards the vaccination of children.

The duties in relation to vaccination imposed on parents and other persons having the custody of children do not materially differ under the Irish laws from the duties set forth in connection with the laws applicable to England and Wales. A public or other vaccinator in Ireland, however, is not under an obligation to set forth in the somewhat too frequent certificates as to insusceptibility the number of times that the child has been unsuccessfully vaccinated by him.

Certificates of successful vaccination to be sent to registrar of births and deaths.

Vaccination Amendment (Ireland) Act, 1879, Sec. 5.

The certificate of successful vaccination, which must be given without fee or charge by the vaccinator to the parent or person having the care of the child, is not required to be transmitted by such parent or person to any other person, the vaccinator being obliged to send a duplicate to the registrar of births and deaths in the district within which the birth was registered, or if such district is not known or the birth has not been registered, to the registrar within whose district the operation has been performed. If the vaccinator is also the registrar of births and deaths, it is necessary for him to sign only one certificate, to be given to the parent or person having the custody of the child.

The following are the forms of certificates of successful vaccination, unfitness for vaccination, and insusceptibility of successful vaccination prescribed by the Vaccination (Ireland) Acts :—

Forms of certificates of unsuccessful vaccination, unfitness for vaccination, and insusceptibility of the vaccine disease (Vaccination (Ireland) Act, 1863, Secs. 4, 6).

MEDICAL CERTIFICATE OF SUCCESSFUL VACCINATION

I, THE undersigned, hereby certify that_____, the Child of_____, of_____, in the County of_____, aged_____, has been successfully Vaccinated by me.

Dated this _____ *day of* _____ 18____.

Signature _____

Medical Officer of the_____Dispensary District. (Or other Medical Practitioner, as the case may be.)

MEDICAL CERTIFICATE OF CHILD BEING UNFIT FOR VACCINATION
In force for Two Calendar Months only

I, THE undersigned, hereby certify that I am of opinion that_____, the Child of_____, of_____, in the County of_____, aged_____, is not now in a fit and proper state to be successfully vaccinated, and I do hereby postpone the Vaccination until the_____day of_____, 18____.

*Dated this*_____*day of*_____, 18____.

Signature _____

Medical Officer of the _____Dispensary District. (Or other Medical Practitioner, as the case may be.)

MEDICAL CERTIFICATE OF INSUSCEPTIBILITY OF SUCCESSFUL VACCINATION

I, THE undersigned, hereby certify that I am of opinion that_____, the Child of_____, of _____in the County of_____ is insusceptible of Vaccine Disease.

*Dated this*_____*day of* _____, 18____.

*Signature*_____

Medical Officer of the_____Dispensary District. (Or other Medical Practitioner, as the case may be.)

Time within which proceedings may be brought (Vaccination Amendment (Ireland) Act, 1879, Sec. 10).

Proceedings on account of neglect to have a child vaccinated may be taken at any time during the continuance of the neglect, but in respect of other offences under the Vaccination (Ireland) Acts there is no provision specifying the time within which complaints may be made or informations laid for offences thereunder. It would appear, however, from the Petty Sessions Act of 1851 (14 & 15 Vict., cap. 93), sec. 10, clause 4, that the complaint must be made within six months from the time when the cause of such complaint arose. Neither is there any provision in the Irish Vaccination Acts similar to that in section 11 of the Vaccination Act of 1871, with respect to cases where a person charged with the offence, but not found guilty of neglect to have a

child vaccinated, may be convicted of not transmitting any certificate, although not charged therewith.

Under section 4 of the Vaccination Amendment (Ireland) Act, 1868, a person convicted of inoculating with small pox is liable to imprisonment for any term not exceeding six months. Punishment for inoculating with small pox.

The following penalties are also prescribed by the Irish Vaccination Acts:— Penalties (The Vaccination (Ireland) Act, 1863).

Every registrar who shall fail to register the vaccination of any child successfully vaccinated, and duly certified to him to have been so vaccinated within his district, or who shall register the vaccination of any child which shall not have been successfully vaccinated, or certified to him to have been so vaccinated, shall forfeit a sum not exceeding twenty shillings for each such case.

Every person who prevents any dispensary medical officer from taking lymph from any child vaccinated by him shall be liable, on summary conviction, to pay a penalty not exceeding twenty shillings. Vaccination Amendment (Ireland) Act, 1879, Sec. 7.

The defendant in any proceedings under the Vaccination (Ireland) Acts may appear by any member of his family, or any other person authorised by him in this behalf. Where any parent or other person having the custody of a child fails to produce such child when required so to do by any summons under the said Acts, such parent or other person shall be liable, on summary conviction, to a penalty not exceeding twenty shillings. Appearance of defendant.

Every parent or person having the custody of a child who neglects to take such child or to cause it to be taken to be vaccinated, or after vaccination to be inspected, according to the provisions of the Vaccination (Ireland) Acts, and does not render a reasonable excuse for his neglect, shall be guilty of an offence, and be liable to be proceeded against in a summary manner, and upon conviction shall be liable to a penalty not exceeding twenty shillings.

Every medical officer, parent, or person, as the case shall require, who shall neglect to transmit any certificate required of him by the provisions of the Vaccination (Ireland) Acts, completely filled up and legibly written, to the registrar within the time specified by the said Acts, and every medical officer who shall refuse to deliver the duplicate to the parent or other person, on request, or who shall refuse to fill up and sign the certificate of successful vaccination, shall be liable to pay upon a summary conviction a penalty not exceeding twenty shillings; and every person who shall wilfully sign a false certificate or duplicate under the Acts shall be guilty of a misdemeanour, and punishable accordingly. Sec. 8.

In any prosecution for neglect to procure the vaccination of a child it shall not be necessary in support thereof to prove that the defendant had received notice from the registrar or any other officer of the requirements of the law in this respect, but if the defendant produce any certificate of successful vaccination, or unfitness for vaccination or insusceptibility to the vaccine disease, or the register of vaccinations kept by the registrar, in which the certificate of successful vaccination of such child shall be duly entered, the same shall be sufficient defence for him except in regard to the certificate of unfitness for vaccination, when the time specified therein for the postponement of the vaccination shall have expired before the time when the information shall have been laid. Sec. 9.

II. THE POWERS AND DUTIES OF BOARDS OF GUARDIANS IN CONNECTION WITH VACCINATION

Vaccination districts.

No question arises in Ireland as to alteration in existing vaccination districts. The territorial divisions adopted in connection with the administration of the medical relief to the sick poor under what is commonly known as the 'Medical Charities Act' date from 1851, and have been found convenient in practice.

14 & 15 Vict., c. 68.

Fees for successful vaccination and for re-vaccination (The Vaccination Amendment (Ireland) Act, 1879, Sec. 6).

As has been stated, no contracts are entered into between boards of guardians and public vaccinators in Ireland. Medical officers of workhouses are bound under the 'Workhouse Rules' issued by the Local Government Board to vaccinate all infants and unprotected children under their care, and the dispensary medical officers upon making periodical returns to the guardians of the infants vaccinated and other persons re-vaccinated by them at their dispensary stations are entitled to be paid two shillings in respect of each case of successful vaccination or of re-vaccination returned and certified by them to the committee of management of the dispensary district. These fees are payable out of the union funds after the expiration of twenty-eight days from the date when the guardians receive the medical officer's report of the number vaccinated from the committee of management. The regulation under which re-vaccinations can be performed are the same in Ireland as in England; but in Ireland, as has been already observed, the sum paid for re-vaccinations is the same as that payable in respect of successful primary vaccinations. In Ireland the public vaccinator is not required to deliver a notice to the person re-vaccinated requiring him to appear on that day week for purposes of inspection, nor is the public vaccinator required to deliver to him a certificate of the result of the operation; and in no case can the guardians recover any fee from the person re-vaccinated. The wording of the 6th section of the Vaccination Amendment (Ireland) Act of 1879 has been held in a court of law to entitle the medical officer to be paid for re-vaccinations even if he has not ascertained by any subsequent inspection the result of his operation.

Vaccination (Ireland) Act, 1858, Sec. 3.

42 & 43 Vict., c. 70.

Duncan *v.* Guardians of Omagh Union, 8 L. R. Ir. 239 (Q.B.).

21 & 22 Vict., c. 64, s. 1.

In Ireland no question is raised as to the right of a medical officer to be paid by the guardians for vaccinations performed by him at his dispensary or at any vaccinating station of persons not resident in his district.

Expenses under the Vaccination Acts (Vaccination Amendment (Ireland) Act, 1879, Sec. 10; Vaccination (Ireland) Act, 1858, Sec. 4).

Irish boards of guardians have full powers to defray all expenses incurred in connection with the enforcement of the provisions of the Compulsory Vaccination Acts; and, acting as rural sanitary authorities, they can also defray all expenses connected with other precautionary measures for preventing the spread of small-pox within the rural sanitary district.

Regulations for the performance of vaccination and re-vaccination.

The districts of public vaccinators in Ireland, as has already been observed, are the dispensary districts or portions of a dispensary district for which each dispensary medical officer acts, and, in respect of his duties as a public vaccinator the Poor Law Commissioners for Ireland issued regulations in December 1853. The regulations in question have from time to time been amended, and from the last issued by the Local Government Board (in November 1885 and August 1888) the following extracts are made in connection with the subject of vaccination and re-vaccination.

'(*a*) Every medical officer of a dispensary district shall vaccinate

all persons who may come to him for that purpose at the dispensary, and shall do and perform all such other acts and things as may be necessary for the purpose of causing such vaccination to be successfully terminated; and shall attend at such convenient places within each vaccination district formed by the committee, at the times fixed and approved by them, for the purpose of vaccinating all persons resident in his district who may come to him or whom he may be requested to vaccinate, being fit subjects for vaccination; and he shall keep and duly enter up a register, in the annexed Form G,[1] of all cases of successful vaccination performed by him as medical officer of the dispensary district; and submit the same to the committee of management at each ordinary meeting. Provided, however, that in any case where the medical officer of the dispensary district is also the registrar of births and deaths for the district, it shall not be necessary for him to insert in the said vaccination register Form G any cases which he may have duly entered in the register of vaccination which he is required to keep in pursuance of the 7th section of the Act of the 26 & 27 Vict., cap. 52, intituled "An Act to further extend and make compulsory the practice of vaccination in Ireland."

'(*b*) He shall inspect every person vaccinated by him on the same day of the week following the day on which such person had been vaccinated, and also on such other days as he may deem necessary.

'(*c*) The report which he is required by the said Act of the twenty-first and twenty-second years of Her Majesty, to make to the committee of management, of all persons successfully vaccinated by him,

[1] FORM G

VACCINATION REGISTER

*County of*_____ *Union of*_____

*District of*_____

Register of Cases of Successful Vaccination and Re-vaccination

No.	Name of Person Successfully Vaccinated	Name of Person Successfully Re-Vaccinated	Age at time of Vaccination	Date of first Vaccination	Date of Successful Vaccination	Residence at time of Vaccination	If a Child, Name and Residence of Father, Mother, or person in charge	Number of Entry of Child's Birth in the Register of Births	Signature of Medical Officer and Date of Entry

Instructions for Vaccination Register (*to be printed at the beginning of each book*):—

The series of numbers in column 1 is to run from the beginning to the end of the year, and a fresh series of numbers is to be commenced on January 1 in each year.

The column for number of entry of child's birth, in the register of births, need not be filled up unless the medical officer is also registrar of births and deaths, nor in cases where the person vaccinated was born before January 1, 1864.

The register of vaccination is to be laid before the committee at each ordinary meeting.

shall be made by him in the Form H[1] hereunto annexed, and the register (Form G), referred to therein, shall be open at all seasonable times to inspection by any member of the board of guardians or dispensary committee.

'(*d*) He shall forward to the board of guardians on March 31, June 30, September 30, and December 31 in each year, a report in the Form P, hereunto annexed[2] containing the names of all children registered as born in the district, who are over three months of age and who do not appear to have been vaccinated.

'(*e*) The re-vaccination of persons applying for the purposes shall be limited by the following conditions:—

1st. That the person has attained the age of twelve years, or, if there be an immediate danger of small-pox, the age of ten years.

2nd. That the person has not before been successfully re-vaccinated.

3rd. That there are no circumstances present which would render the operation undesirable. And

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[1] FORM H

FORM of REPORT of the MEDICAL OFFICER in pursuance of Section 3 of the Act 21 and 22 Vict., c. 64, of the NUMBER of PERSONS SUCCESSFULLY VACCINATED by him in each year.

_____ *Union.* _____ *Dispensary District.*

I hereby certify that I have, between the dates _____ and _____, successfully vaccinated _____ persons, all of whom are resident in _____ Dispensary District; that I duly inspected them at the times required by the regulations of the Local Government Board, and that I have entered all the required particulars in the Vaccination Register (Form G).

Signature _____

Medical Officer of _____ *Dispensary District.*

Date _____, 18 .

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[2] FORM P

_____ *Union.* _____ *Dispensary District.*

Medical Officer's Report of Children born in the District since the , and over three months of age, who do not appear to have been vaccinated.

No. on Register	Name of Child	Date of Birth	Name and Residence of Parent or Person having the Care, Nurture, or Custody of the Child	Date when Notice under the 8th Section of the Compulsory Vaccination Act was given	Observations

NOTE.—In any case in which the medical officer may be aware of the reason why the child has not been vaccinated, he should state it in the column for observations; and in any case in which a certificate has been given that the child is not in a fit state for vaccination, or is insusceptible of the vaccine disease, the fact should be stated.

4th. That the medical officer can afford lymph for the purpose, without interfering with the performance of primary vaccination in his district.'

Proceedings in connection with the ordering of prosecutions under the Vaccination Acts (Vaccination Amendment (Ireland) Act, 1879, Sec. 10).

In instituting proceedings to enforce the provisions of the Compulsory Vaccination Acts it is usual in Ireland for the guardians to direct their clerk or a relieving officer to prosecute, and the medical officer of the district (who is public vaccinator) is called as a witness to prove the default. In no case, whether of first or subsequent prosecutions, are proceedings ever taken without the instructions of the guardians. The guardians, as in England, pay all necessary costs. The expenses are charged to the electoral divisions comprising each dispensary district in the same manner as all charges incidental to medical relief in the district.

Chargeability of expenses (The Vaccination (Ireland) Act, 1858, Sec. 4).

III. THE TENURE OF OFFICE, QUALIFICATIONS, DUTIES, AND REMUNERATION OF PUBLIC VACCINATORS

Tenure of office of public vaccinators.

14 & 15 Vict., c. 68.

The public vaccinator is in Ireland an officer of the board of guardians because he is, as a dispensary medical officer, their officer so far as regards the administration of the Vaccination Acts. The tenure of the office of public vaccinators in Ireland depends upon the tenure of the office of dispensary medical officer to which the duty of vaccinator is attached. Dispensary medical officers are appointed by the committee of management of the district for which they act under the provision of the Medical Charities Act, and they hold office until they die or resign, or are removed by the Local Government Board on sufficient grounds, and they are not permitted under any circumstances to discharge their duties by deputy. In the event of a dispensary medical officer's illness or unavoidable absence, he can recommend a duly qualified medical practitioner to his committee of management, and it is their duty to make a temporary appointment, the duties and responsibilities of the medical officer devolving upon the *locum tenens* during the period for which he is appointed. In Ireland, however, the public vaccinator is not required to possess any special qualification for the duties incidental to his office as public vaccinator, and it is to be regretted that the production of a certificate of special instruction in the practice of vaccination is not made necessary. Every dispensary medical officer is required by the regulations of the Local Government Board to possess a degree in medicine or a diploma or licence to practise medicine, a qualification in surgery, and a diploma or a certificate of competence in midwifery, but in respect of vaccination, as there are no contracts and therefore no conditions to be observed, the Irish public vaccinator is at liberty to vaccinate in any manner he thinks fit, and to produce any number of vesicles he may consider sufficient.

Qualification of public vaccinators.

Supervision of public vaccinators.

The Local Government Board for Ireland have constantly to remonstrate with public vaccinators as to the insufficiency of their practice in these respects, and have issued circulars of an instructional character pointing out the proper mode of proceeding, and laying down the standard of efficient vaccination at which public vaccinators should aim. In Ireland there is not the same supervision over public vaccinators as in England. There are no inspectors of vaccination, no awards are made as in England for excellence in vaccination, and practically the only supervision which it is in the power of the Irish

Local Government Board to exercise is through their four medical inspectors, one for each province, who at their periodical inspections ask certain questions as to the practice of the public vaccinator in the discharge of his duties under the Vaccination Acts. The medical officer of a dispensary district is under an obligation to submit his books, including his vaccination registers, to the committee of management at their monthly meetings, and the register of successful vaccination to the superintendent registrar once a quarter. All books directed to be kept by a dispensary medical officer are examined by the medical inspector of the Local Government Board at his periodical visits of inspection, and when the medical officer holds the post of registrar he has also to submit the books kept by him in that capacity to the inspector who periodically visits each registration district under the directions of the registrar-general. Each dispensary medical officer is also required in his quarterly return to the Local Government Board to answer the following questions :—

'Whether a sufficient supply of vaccine lymph is kept up at the dispensary? And whether it is procured from the Vaccine Department of the Local Government Board, Dublin, or how otherwise?

'Whether there has been any increase or diminution of vaccination as compared with the corresponding quarter of last year? If the amount of vaccination performed be not in proportion to the population, probable cause thereof, or of any diminution?

'Whether the dispensary arrangements and provisions as to vaccination are duly notified by public notices (Form N), posted in the district, in accordance with Article 4 of the Dispensary Rules, or in what manner?

'Has the report (Form P) been duly made and transmitted to the board of guardians? To what date is it made up?'

The following circular of instructions to public vaccinators was issued by the Local Government Board on August 30, 1880 :—

Circular of instructions to public vaccinators.

'1. Except so far as any immediate danger of small pox may require, vaccinate only subjects who are in good health. As regards infants, ascertain that there is not any febrile state, nor any irritation of the bowels, nor any unhealthy state of skin; especially no chafing or eczema behind the ears, or in the groin, or elsewhere in folds of skin. Do not, except of necessity, vaccinate in cases where there has been recent exposure to the infection of measles or scarlatina, nor where erysipelas is prevailing in or about the place of residence.

2. Vaccination from arm to arm with recent liquid lymph is, of all methods of vaccinating, by far the most satisfactory in its results. It is therefore desirable that vaccinators, in carrying out vaccination, should as far as possible maintain such a succession of cases as will enable them, as a general rule, to operate by that method.

The preserved lymph of the Vaccine Department of the Local Government Board for Ireland is sent out as follows: (1) Liquid in hermetically sealed capillary tubes; (2) Dry on ivory points; and the lymph preserved in these ways respectively is to be used according to the following instructions :—

(1) In proceeding to use a charged capillary tube—snip off its two ends; then, from one end of the tube, blow the lymph through the opposite end upon the arm of one of the infants, over the place where the operation is to be performed, having had previously two or three other infants' arms prepared for vaccination. The lancet is then to

be loaded from the drop, and inserted into the arms of the children prepared to receive it, but enough is to be left upon the original arm to vaccinate that child. Unless the tube be very copiously charged not more than two children are to be vaccinated from it. The insertion should be made in four spots as hereinafter directed.

(2) In operating with a charged ivory point *use no water to soften the lymph.* In this mode of vaccinating the operator should make a few scratches *just through* the cuticle, only sufficiently deep to *damp* the surface with *blood.* These scratches should *be made in four spots,* each covering a surface about so large at nearly one inch apart, over the site of the insertion of the deltoid muscle. The scratches may be abrasions of the cuticle by fine parallel lines so , or by further cross-scratch thus . The operation may be performed on both arms when the surface available, or the position usually selected, is of limited extent. The operator should proceed with caution and take time. The charged point should be laid with the flat of its pointed or charged end upon the surface freshly damped by the blood, and the lymph is to be rubbed in firmly and slowly, looking at the surface of the point during the operation occasionally, till it be observed that all the lymph is off, and the ivory bare. Three or four points are sufficient for the operation. On no account should incisions be made and the point of the ivory inserted into them; and it should be borne in mind that the vaccine virus ought not to reach the subcutaneous cellular tissue. The child should be kept under observation till the spots are perfectly dry, and orders given that the arms *must not be washed*; and that they should be kept free from all pressure, hurt, or irritation. The ivory points when used should be carefully washed and returned to this office periodically. Tube boxes are also to be returned.

(3) Never either use or furnish lymph which has in it any, even the slightest, admixture of blood. In storing lymph, be careful to keep separate the charges obtained from different subjects, and to affix to each set of charges the name, or the number in your register, of the subject from whom the lymph was derived. Keep such note of all supplies of lymph which you use or furnish as will always enable you in any case of complaint, to identify the origin of the lymph.

(4) Never take lymph from cases of re-vaccination. Take lymph only from subjects who are in good health, and, as far as you can ascertain, of healthy parentage; preferring children whose families are known to you, and who have elder brothers or sisters of undoubted healthiness. Always carefully examine the subject as to any existing skin-disease, and especially as to any signs of hereditary syphilis. Take lymph only from well-characterised, uninjured vesicles. Take it (as may be done in all regular cases on the day week after vaccination) at the stage when the vesicles are fully formed and plump, but when there is no perceptible commencement of areola. Open the vesicles with scrupulous care to avoid drawing blood. Take no lymph which, as it issues from the vesicle, is not perfectly clear and transparent, or

is at all thin and watery. Do not, under ordinary circumstances, take more lymph from a vesicle than will suffice for the immediate vaccination of five subjects, or for the charging of seven ivory points, or for the filling of three capillary tubes; and from larger or smaller vesicles take only in like proportion to their size. Never squeeze or drain any vesicle. Be careful never to transfer blood from the subject you vaccinate to the subject from whom you take lymph.

(5) Scrupulously observe in your inspections every sign which tests the efficiency and purity of your lymph. Note any case wherein the vaccine vesicle is unduly hastened or otherwise irregular in its development, or wherein any undue local irritation arises; and if similar results ensue in other cases vaccinated with the same lymph, desist at once from employing it. Consider that your lymph ought to be changed if your cases, at the usual time of inspection on the day week after vaccination, have not, as a rule, their vesicles entirely free from areolæ.

(6) Keep in good condition the lancets or other instruments which you use for vaccinating, and do not use them for other surgical operations. When you vaccinate, have water and a napkin at your side, with which invariably cleanse your instrument after one operation before proceeding to another.

(7) Lymph may be obtained on personal application at the Dublin Cowpock Institution, 45 Upper Sackville Street, every day, between the hours of 12 and 2 o'clock P.M.

Letters of application for lymph should be prepaid and addressed as follows:—

To the Secretary,
Vaccine Department,
(Local Government Board),
45 *Upper Sackville Street,*
Dublin.

Lymph is only distributed to legally qualified medical practitioners, and it is particularly requested that, upon written application for lymph being made, *the name and address of the applicant may be perfectly legible.*'

IV. DUTIES AND REMUNERATION OF REGISTRARS OF BIRTHS AND DEATHS UNDER THE VACCINATION ACTS

Registrars of births and deaths.

The duties of registrars of births and deaths under the Vaccination Acts do not materially differ in Ireland from those in force in England; but in Ireland the clerk of each poor law union is *ex-officio* superintendent registrar for the combination of registrars' districts situated within the union for which he acts, and, as a general rule, the dispensary medical officers are the registrars for the districts, or portions of districts, for which they act.

Notice to be given to parents, &c., registering births (The Vaccination (Ireland) Act, 1863, Sec. 8).

Upon registering the birth of any child who is living at the time of registration, and who is not already vaccinated, the registrar is to give to the parent or person having the custody of the child, or to the informant of the birth for delivery to such parent or person, a 'notice of the requirement of vaccination' in the following form, in which he is to insert the times and places at which the medical officer will attend within his district for the purpose of vaccination.

NOTICE OF THE REQUIREMENT OF VACCINATION

To the Father, or Mother, or other Person having the custody of the Child herein named.

*Union of*_____

No. _____ in the Register of Births. } Schedule C.—Notice requiring Child to be Vaccinated.

I, the undersigned, hereby give you Notice, and require you to have _____ Vaccinated within Three Months after the Birth, pursuant to the provisions and directions of the Act of the 26th and 27th Victoria, Cap. 52, and 42nd and 43rd Victoria, Cap. 70.

As witness my hand, this ____ day of _____ 18___.

*Signature*_____

Registrar of Births and Deaths for the _____ *District.*

Times of Attendance at the Undermentioned Vaccination Stations

Stations	Days of the Week	Hours of Attendance

You are required to have this Child Vaccinated at Latest by the _____ day of _____ 18___, under a penalty of Twenty Shillings.

The Vaccination Amendment Act of 1879 requires every child to be vaccinated before it is three months old. The vaccination may, however, be postponed by medical certificate if the child be not in a fit state to be vaccinated. Sec. 3.

After the vaccination has been performed, the child must be inspected by the vaccinator in order that, if the operation has been successful, he may fill up and sign the requisite certificate. When the vaccination has been performed by the medical officer, the child must be taken to him for inspection at the appointed hour on the same day in the following week. Sec. 4.

To this notice there must be attached the prescribed forms of medical certificate (*a*) of successful vaccination; (*b*) of unfitness for vaccination (in force for two calendar months only); and (*c*) of insusceptibility of successful vaccination. The notice should be handed by the parent or person who produces the child for vaccination to the medical officer or practitioner, who will fill up the proper certificate. If the notice be lost the vaccinator must fill up a fresh form of 'Notice of Requirement,' or if the case is one of successful vaccination the

Transmission of certificate of successful vaccination to registrar (Vaccination Amendment (Ireland) Act, 1879, Sec. 5).

form entitled Form A, first schedule.[1] The medical certificate of successful vaccination is to be transmitted by the medical practitioner who performed the operation through the post on the form entitled 'Notice of Requirement of Vaccination,' to the registrar of births and deaths of the district in which the birth was registered, and further to deliver, without fee or charge, a duplicate of such certificate to the parent or person having the custody of the child. If the medical officer of any dispensary district who performed the operation is also the registrar of births and deaths of the district in which the birth was registered, it is sufficient for him to sign one certificate to be delivered to the parent or person having the custody of the child. If, however, after due inquiry, the district in which the birth was registered is not known to the medical officer or practitioner, or if the birth has not been registered, such certificate is to be sent to the registrar within whose district the operation was performed. If a child is born elsewhere than in Ireland, but brought into Ireland after August 15, 1879, without having been vaccinated, the parent or person having its custody is under the same obligation to have such child vaccinated as if it had been born in Ireland on the day on which it was brought into Ireland. All these successful vaccination certificates when received by the registrar are to be registered by him in the 'Register of Cases of Successful Vaccination,' but re-vaccinations (in which cases a certificate is not necessary) or the vaccination of persons born before January 1, 1864, should not be entered in the register. The register is in the form given on page 419.

Sec. 3.

Register of cases of successful vaccination (The Vaccination (Ireland) Act, 1863, Sec. 7).

Fees to be paid to registrar by boards of guardians (The Vaccination (Ireland) Act, 1863, Sec. 9).

A fee of 3*d.* is to be paid to the registrar for each entry made in this register, except where (as dispensary medical officer) he performed the operation himself, and has thereby become entitled to the fee of 2*s.* allowed in such cases.

Return of births and deaths to dispensary medical officer where he is not the

As already stated, where the registrar is not the dispensary medical officer of the district, he is to forward to that medical officer a monthly return of all births and deaths of infants under twelve months of age registered by him during the month, and for every birth and death entered in such monthly return the registrar is entitled to a fee of 2*d.*

[1] *Form A, First Schedule Vaccination Act*, 1879.

County _____

Union _____

District _____

Name of Child _____

Name of Parent _____

Place of Residence _____

Name of County in which Parent resides _____

Age of Child _____

Number in Register of Births _____

Signature of Medical Officer or Other Medical Practitioner _____

Date _____

COMPULSORY VACCINATION (IRELAND) ACTS, 1863 and 1879.

NOTE.—This certificate is intended to be used by the medical practitioner who vaccinates the child as a duplicate to be given to the parent.

Place of Child's Birth, _____

Place of Vaccination, _____

Date of Vaccination, _____

Medical Certificate of Successful Vaccination.

I, the undersigned, hereby certify that _____, the Child of _____ of _____ aged _____, in the County of _____ has been successfully vaccinated by me.

Dated this ____ day of _____, 18 .

Signature _____

Medical Officer of the _____ Dispensary District.

(Or other Medical Practitioner as the case may be.)

The fees above-mentioned are paid by the boards of guardians, but the registrar may allow searches to be made in the vaccination register on payment of a fee of 1*s.*; and shall, if required, give a certified copy of any entry, for which a fee of 6*d.* may be charged.

registrar (Vaccination Amendment (Ireland) Act, 1879, Sec. 11).

No fee is charged for searches made by public vaccinators or authorised officers of the guardians, or by any inspector appointed by the Local Government Board.

Searches in register (The Vaccination (Ireland) Act, 1863, Sec. 7).

By section 11 of the Vaccination Amendment (Ireland) Act, 1879, the monthly returns transmitted to dispensary medical officers who are not registrars are to be made in such form and contain such particulars as may be from time to time prescribed by the Registrar-General of Births and Deaths in Ireland, with the approval of the Local Government Board for Ireland; and forms necessary for the purpose are to be supplied by the Registrar-General to every registrar of births and deaths. Section 11 of the Vaccination (Ireland) Act, 1863, provides for the supply of books, forms, and regulations by the Registrar-General to the registrars, who are to deliver to the duly qualified practitioners in their districts such books, etc., as they may require.

Form of returns.

Supply of book, &c., to registrars and medical practitioners.

V. THE NATURE AND TENURE OF OFFICE, DUTIES, POWERS, AND REMUNERATION OF VACCINATION OFFICERS

There are no officers in Ireland corresponding to vaccination officers in England.

Vaccination officers.

If a child has not been vaccinated or has not been brought for inspection of vaccination to the dispensary medical officer within the prescribed period, the following notices are issued to the parent or person having the custody of the child :—

Notices given where a child has not been vaccinated or brought for inspection of vaccination.

_____ *Dispensary.*

_____

_____, 18 .

I have to acquaint you that if you do not bring or send your Child to this Dispensary on next_____ morning at_____o'clock, for Inspection of the Vaccination, your name will be returned as a defaulter for prosecution.

_____

Medical Officer.

*To*_____

*Address*_____

_____*Dispensary.*

_____

_____, 18 .

I HEREBY give you notice and require you to have your child _____ presented to me for Vaccination at this Dispensary, pursuant to the provisions and directions of the above recited Act, on next_____ at _____ o'clock;

Or to produce to me a Certificate of previous Successful Vaccination;

Or of the insusceptibility of taking the Vaccine disease.

If after this Notice the Father or Mother of said Child, or the person having the care, nurture, or custody of the said Child, shall not cause such Child to be Vaccinated, or shall not, on the eighth day after the Vaccination has been performed, take, or cause to be taken, such Child for Inspection, according to the provisions of the Act, such persons so offending shall be liable to a Penalty of TWENTY SHILLINGS.

_____

Medical Officer.

*To*_____

*Address*_____

Report as to children not vaccinated.

The medical officer makes a quarterly report to the guardians of the union containing the names of the children registered as born in the district who are over three months of age and who do not appear to have been vaccinated. The guardians may direct proceedings to be instituted for the purpose of enforcing obedience to the provisions of the Vaccination Acts, and this is done as a rule through the relieving officers of the district, who generally receive a certain allowance from the guardians as remuneration for the duty.

Union of _____ *District of* _____

REGISTER OF CASES OF SUCCESSFUL VACCINATION

No.	Name of Child successfully Vaccinated	Age at time of Vaccination	By whom Vaccinated	Date of certificate of successful Vaccination	Residence at time of Vaccination	Name and residence of Father, Mother, or Person in charge of Child	Number of entry of Child's birth in the Register of Births	Signature of Registrar and Date of entry
1861								
1862								
1863								
1864								
1865								
1866								
1867								
1868								
1869								
1870								
1871								
1872								
1873								
1874								
1875								
1876								
1877								
1878								
1879								
1880								

THE LAW

RELATING TO THE

PUBLIC HEALTH IN SCOTLAND

AUTHORITIES

The authorities consulted in the preparation of this portion of the treatise include the indispensable 'Handbook of Public Health' by John Skelton, C.B., LL.D., Chairman of the Board of Supervision, which, in addition to the Scottish Public Health Acts, with notes, contains the various orders, model bye-laws, and circulars of the Board; the annotated editions of the 'Local Government (Scotland) Act, 1889,' by Messrs. Nicolson and Mure, and Messrs. Chisholm and Shennan; Mr. Campbell Irons' edition of the 'Burgh Police (Scotland) Act, 1892'; Dr. Nasmyth's 'Manual of Public Health'; Sheriff Spens' 'Sanitary System of Scotland'; Sheriff Guthrie Smith's 'Poor Law and Public Health'; Mr. Broun's 'Law of Nuisance in Scotland'; and numerous annual reports by Medical Officers and Sanitary Inspectors of counties and burghs. Among Government publications the reports of the Board of Supervision and the Registrar General for Scotland, and a volume of 'Rules, Instructions, and Recommendations issued by the Board of Supervision to Parochial Authorities' may be mentioned. The 'Sanitary Journal' and the 'Poor Law Magazine' contain much useful information.

References to the 'Public Health [Scotland] Act,' and the 'Burgh Police [Scotland] Act,' where no year is specified, indicate the Acts of 1867 and 1892 respectively. The terms 'landward' and 'burghal' are not in this connection statutory, but have been employed to express the distinction which the English statutes recognise by dividing the country into 'rural' and 'urban' districts.

PREFATORY NOTE

It is not possible within the limits prescribed for this work to present a complete analysis of the public health system of Scotland. In the following pages, however, an effort will be made to indicate, so far as possible in the order followed in the exposition of the English law, the principal points in which the two systems differ. When difference exists, it is not due to any conflict of scientific opinion, but mainly to varying social and administrative conditions, or to the parliamentary accidents which sometimes retard, as they sometimes precipitate, legislation for the northern country. The Public Health Act, 1875, does not apply to Scotland. The general public health code of Scotland, so far as a code can be said to exist, is contained in the Public Health (Scotland) Act, 1867, and is, therefore, of necessity somewhat in arrear of the English law. The Local Government (Scotland) Act of 1889, though it did not introduce detailed amendments into the law of public health, prescribed machinery for its improved administration in rural districts. The Burgh Police (Scotland) Act of 1892, to be further referred to below, provided an additional, and in some respects an alternative, code for the burghs of Scotland, excepting Edinburgh, Glasgow, Aberdeen, Dundee, and Greenock, which are regulated by local Acts. The special Acts dealing with rivers pollution prevention, the housing of the working classes, alkali works regulation, factories and workshops, sale of food and drugs, margarine, contagious diseases (animals), coal mines regulation, and infectious disease (notification), contain clauses applying them to Scotland. The Acts dealing with canal boats, baths and washhouses, open spaces, commons, burial, infectious disease (prevention), and museums and gymnasiums in England, do not apply to Scotland, but some of their provisions are repeated with modifications in various Scottish statutes. There are special Acts dealing with burial-grounds, public parks, and vaccination in Scotland alone.

Before proceeding to more detailed comparison it may be well to prefix a few general observations, which must be constantly kept in view, respecting the central and the local government of Scotland. The Local Government Board exercises no jurisdiction in Scotland. The corresponding jurisdiction is divided between (1) the Secretary for Scotland, a member of the Government having his official headquarters in London; (2) the Board of Supervision, a body sitting in Edinburgh which exercises powers of poor-law and public health administration; and (3) the sheriffs of the various Scottish counties, officers (to be carefully distinguished from their English namesakes, with whom they have but little in common) combining functions judicial, executive, and administrative in a manner unknown to English constitutional practice. The Municipal Corporation Acts, again, do not apply to Scotland, and

there is fortunately in that country a less complicated division into local government areas than in England, and comparatively little overlapping of jurisdictions.

The main distinction in local administration is between county and burgh. All the rural or 'landward' areas are under the jurisdiction of county councils. The burghs are in some cases (those of the royal and parliamentary burghs, corresponding to the English municipal boroughs) under the government of town councils, who for certain purposes (including public health) act under the name of 'burgh commissioners'; in others they are under burgh commissioners only, the latter class being known as 'police' burghs. The landward parishes are in most counties divided into groups known as county districts, and each district is a unit for highway and rural public health administration, and is managed by a committee of county councillors supplemented by representatives of parishes and of certain burghs. There is nothing corresponding to the English poor-law union; the unit of poor-law administration, both in burghs and in counties, is the parish, and the administrators are the parochial board of the parish.

The name 'police burgh' suggests one of the most salient points of difference between the two systems. So used with an adjectival connotation, the term 'police' occurs throughout a long series of Acts of Parliament applying to Scotland only, in a very wide sense unknown to English statutes. To quote only from the latest important Act, the Burgh Police (Scotland) Act, 1892, is divided into six parts, of which Part Fourth is headed 'Police Administration,' and includes sub-divisions relating to lighting, cleansing, paving, ventilation, public sewers, drainage of houses, supply of water, public bathing, and other subjects which are dealt with in the English Public Health Act specifically as matters of public health. Many subjects which in an English treatise fall strictly under the heading 'Law of Public Health,' would thus, so far as the law within Scottish burghs is concerned, be more accurately treated under the title of 'Burgh Police Law.' For present purposes it is sufficient to indicate that while in England there is one code of public health making clear and distinct provision for urban and rural districts severally, in Scotland there are both general public health Acts applicable to sanitary authorities in counties and burghs alike, and a special Burgh Act which is not ostensibly a public health Act but which in burghs supplements, modifies, and in some respects overlaps the general statutes.

From what has been said the reader will probably infer (and the inference will be correct) that in an exposition of the Scottish law of public health there is often more to be said, for purposes of comparison with England, about the method in which the various powers and duties in regard to the public health are apportioned between, and exercised by, the various local authorities, than about the powers and duties themselves. It is a general complaint among Scottish medical officers of health that the powers of local authorities are not sufficiently stringent, and that in this respect Scotland is to some extent behind England. It must, however, be remembered that there is more difference between the circumstances of localities in Scotland, and therefore more difficulty in framing a common code. The populous cities of the Lowlands and the East coast have codes of their own in advance of the general law; Glasgow has led the van in innovations

which English cities have been fain to copy. The sparsely populated Highland counties present very different social conditions from those of the Lothians or Renfrewshire. In the Western Islands it is not yet possible to reckon on the same educated public opinion that is beginning to prevail elsewhere, and, if it were, the poverty of these islands forbids the application of measures requiring any large expenditure out of local rates. There are signs, however, that the indifference to preventive medicine which has hitherto marked the outlying districts of Scotland is under the more energetic *régime* introduced by the Local Government Act of 1889 (which transferred public health administration in landward districts from the parish to the county district authority), making way for a vigilant attention which may be expected before long in turn to produce its result by necessitating further legislation.

As most of the controlling powers, which in England are exercised by the Local Government Board, are, as regards Scotland, vested in the Board of Supervision, these prefatory remarks may fitly close with some account of the constitution of that body. Originally framed in 1845 as a Poor Law Board, or, to give it its full title, a 'Board of Supervision for the Relief of the Poor in Scotland,' it is composed of the Lord Provost of Edinburgh, the Lord Provost of Glasgow, the Solicitor-General for Scotland, the Sheriffs of Perth, Renfrew, and Ross and Cromarty, and three members appointed by the Queen, one of whom is chairman of the Board and receives a salary. The three sheriffs receive 150*l.* a year each (in addition to their salaries as sheriffs) for their work on the Board. There is a paid secretary, and a small staff of inspectors, officers, and clerks, none of whom are required by statute to possess any special public health qualifications; and the Board pay a fee of 200*l.* a year to the medical officer of the City of Edinburgh for his professional advice in matters of public health. The Board, in short, remains almost as when it was constituted fifty years ago for poor-law purposes; and it is a commonplace among Scottish public health reformers that it should be strengthened by the further importation of skilled advisers, although it is fully admitted that its past administration has in the main been wisely directed.

The Board has power to require the appointment of sanitary inspectors and medical officers by local authorities, to conduct inquiries into the conditions of sanitary districts, and to appoint commissioners to hold special inquiries.

As this work is passing through the press, a Bill [1] has been laid by the Government before Parliament, which *inter alia* proposes to reconstitute the Board under the title of the 'Local Government Board for Scotland.' If this measure passes into law, the Board will in future be presided over by the Secretary for Scotland, to whom it will be directly responsible, and will consist, under him, of the Solicitor-General for Scotland, and the Under-Secretary for Scotland, *ex officiis*, and of three other members—a Vice-President, an advocate, and a medical man—holding permanent appointments and drawing special salaries for their work on the Board.

[1] The Local Government (Scotland) Bill, 1894.

PUBLIC HEALTH LAW, SCOTLAND

PART I

AREAS AND AUTHORITIES FOR SANITARY PURPOSES

I. LOCAL AREAS FOR SANITARY PURPOSES

Burghal and landward sanitary areas (Public Health [Scotland] Act, 1867, Sec. 5; Local Government [Scotland] Act, 1889, Secs. 11, 17, 77).

Every burgh in Scotland, irrespective of population, whether a royal burgh, parliamentary burgh, burgh incorporated by Act of Parliament, or police burgh, administered under the Burgh Police (Scotland) Acts, 1892 and 1893, is a separate area for public health purposes. The landward public health area until 1890 was the parish, which, as a rule, is much larger in Scotland than in England. It was found however that, from various causes, the Public Health Acts remained almost a dead letter in most parishes, and in 1890 the operation of the Local Government (Scotland) Act altered the landward area from the parish to the county district. The county councils of all Scottish counties are permitted, and the county councils of counties containing six or more parishes (if before 1890 they were divided into road districts) are required, to divide their counties into districts, each district comprising a group of parishes and a co-extensive group of county council electoral divisions. In counties not divided into districts the public health area of administration is the county, which of course in this connection does not include the burghs comprised within its geographical limits. Eight Scottish counties are undivided. There are on the average about four districts in each divided county, and about eight parishes in each county district. The boundaries of a district may be altered from time to time, but a parish may not be partly in one county district and partly in another. The districts are separate areas for road administration as well as for public health administration. Special water and drainage districts will be mentioned below (see page 434).

There is a considerable body of public opinion in favour of merging the smaller Scottish burghs in the counties for public health purposes, on the ground (principally) that they are not sufficiently large, or are too economical, to be efficient units of administration. The limit of population usually suggested is 7,000, and if the proposal were carried out some 170 burghs would be affected as being under that limit. The alteration in the landward area effected in 1890 is a precedent for throwing small areas into a larger group. But at least in some counties (notably in Kirkcudbright, Fife, and Clackmannan) joint

action by burghal and landward public health authorities is doing much to remove any inconvenience incidental to the existence of separate administrative areas.

II. LOCAL AUTHORITIES FOR SANITARY PURPOSES

Burghal local authority (Public Health [Scotland] Act, Secs. 5, 7; Burgh Police [Scotland] Act, 1892, Secs. 5, 21, 23, 95).

The provost, magistrates, and town council, acting (in most cases) as burgh commissioners under the Burgh Police (Scotland) Acts, are in each burgh the local authority for public health purposes, and as such exercise the powers in regard to the public health conferred on a local authority by the Public Health (Scotland) Acts and other statutes, and the further sanitary powers conferred by the Burgh Police (Scotland) Act of 1892 on burgh commissioners. The commissioners, as local authority, may appoint any committee or committees of their own body to receive notices, to take proceedings, and in all or certain specified respects to execute the Public Health Acts, and they may further delegate to committees their powers under the Burgh Police Act. Committees appointed under the latter Act may, if so allowed by the commissioners, appoint sub-committees with powers.

Landward local authority (Public Health [Scotland] Act, Sec. 5; Local Government [Scotland] Act, Secs. 11, 17, 52, 53, 55, 57, 73, 78, 79, 80).

The landward local authority for public health purposes, where a county is not divided into districts, is the county council, acting together with one representative from the parochial board of each parish within the county. Where a county is divided into districts the local authority is the district committee, consisting of the county councillors for the electoral divisions comprised within the district, and of one representative from each parochial board within the district. But in divided counties certain powers are reserved to the county councils, viz. the powers of appointing county medical officers and county sanitary inspectors, of making statutory representations to the Board of Supervision on matters affecting the public health of a district, of making bye-laws for the prevention and suppression of nuisances not already punishable summarily, of raising money by rate, of making general regulations for the government of a district committee, and of deciding upon appeals by ratepayers in a district from any proceedings or order of a district committee except for the removal of a nuisance, and upon appeals by the medical officer or the sanitary inspector of a county or a district. The county council, in addition to the district committee, has power to enforce the provisions of the Rivers Pollution Prevention Act.

Police burghs send representatives to county councils and district committees, with power to vote on matters involving expenditure to which the burghs contribute. Where such burghs contribute towards the county rate out of which the salaries of the county medical officers and sanitary inspectors are paid, it is generally held that their representatives may vote in the appointment of these officials by the county council; but there is room for further statutory definition of the rights possessed by these burghs to the services of the county officials when appointed.

County councils and district committees may appoint sub-committees to exercise their public health functions. In some counties a sub-committee is appointed for each parish.

III. ACQUISITION OF BURGHAL POWERS IN LANDWARD AREAS

No means of conferring burghal powers on landward local authority except by constitution of a new police burgh (Burgh Police [Scotland] Act, Secs. 5–14; Burgh Police [Scotland] Amendment Act, 1893, Sec. 2; Local Government [Scotland] Act, Sec. 99).

Most of the powers conferred by the Public Health (Scotland) Acts are conferred upon local authorities as such, whether landward or burghal. But the local authority of a burgh possesses additional sanitary powers of importance in virtue of the Burgh Police Act. Here we touch one of the most vital differences between the English and Scottish systems. There is no elastic provision in the Scottish statutes on the lines of section 276 of the English Public Health Act of 1875, which enables the Local Government Board to invest rural sanitary authorities with any of the powers of an urban sanitary authority. Special water and drainage districts may indeed be formed. But there is no further egress for a landward local authority from its landward condition. As the law stands at present the inhabitants of part of a landward district, if they seek for sanitary improvements beyond the scope of the district committee, have no alternative but to take measures for constituting their portion of the district a police burgh. If the sheriff, on their application, finds that the area in respect of which application is made is in substance a town, provision is made in the Burgh Police Acts for a public meeting and (if required) for a poll of the householders within the area, to decide whether it should be constituted a burgh. When the decision is in favour of the change, a new police burgh is formed, the authority of the district committee ceases, and the burgh is for most purposes taken out of the county, to be henceforth governed by elected commissioners. The acquisition of additional public health functions is only an incident in the transaction.

There is a strong feeling in many rural districts that it is unfortunate that the only mode of acquiring additional public health functions should be the creation of an independent public health authority. It was the existence of this feeling that led to the passing, in 1893, of a short Act amending the Burgh Police Act of the previous year, so as to place the barrier of a public meeting and vote in the way of the formation of a new police burgh, and many county councils have passed resolutions in favour of enabling district committees to act as authorities for lighting, cleansing, scavenging, paving, and the like purposes within special areas which stand in need of such facilities, but which are unwilling to exchange county government for burgh government with all its additional responsibilities and expenses.

IV. ALTERATION OF SANITARY AREAS

Landward areas (Local Government [Scotland] Act, Secs. 18, 77; Burgh Police [Scotland] Act, Secs. 9, 11, 12; Burgh Police [Scotland] Amendment Act, 1893, Sec. 2).

By the powers described in the preceding paragraphs part of a landward sanitary area may be converted into a burghal area. The area of a landward district, as a whole, that is, of a county district, may be from time to time altered by a county council. (As the county district, however, is the area of road administration, as well as for public health, and as it must in any case remain an area of assessment for repayment of debt until existing debts are paid off, many considerations tell against frequent alterations of districts.) In neither of these cases is the consent of the central authority required, as in England, nor is there any provision for laying decisions for alteration before Parliament. The Secretary for Scotland, however, is apprised of the formation of new police burghs. The law does not appear to contemplate the complete *cesser* of a burgh or police burgh, but its

Burghal areas.

boundaries for public health purposes (i.e. its police boundaries) may from time to time, upon the application of the burgh commissioners, be revised, altered, extended, or contracted by the sheriff, whose decision is subject to an appeal to the Court of Session. In this case, again, the Scottish procedure is more summary than the English.

No Scottish burgh has in recent times received a royal charter, and there is no statutory procedure applicable to the grant of such a charter; but for public health purposes it is immaterial whether a burgh is a royal, a parliamentary, or a police burgh.

PART II

POWERS AND DUTIES OF BURGH AND LANDWARD LOCAL AUTHORITIES

The sanitary powers possessed by landward authorities are mainly derived from the Public Health (Scotland) Acts. The burgh authorities have in some matters alternative powers under the Public Health Acts and under the Burgh Police Acts, and it is occasionally difficult to ascertain the precise bearing of the dual jurisdiction thus enjoyed. Provisions are repeated with a difference, but without any repeal, and without any definite statement of the effect produced; others are omitted from the Act of 1892, and many further powers are conferred by it. The burgh local authorities therefore find it convenient to proceed sometimes under the one set of Acts, sometimes under the other.

I. SEWERAGE

Sewerage (Public Health [Scotland] Act, Secs. 71–87, 96; Burgh Police [Scotland] Act, Secs. 215–237).

The Scottish Acts do not draw any formal distinction between 'drains' and 'sewers,' but the duties of local authorities in regard to their provision and maintenance do not materially differ from those of English sanitary authorities. There is a general provision, to be mentioned below, for compelling local authorities to perform their duties, whether in regard to sewerage or to other sanitary matters.

Points of difference from English law (Local Government [Scotland] Act, 1889, Sec. 18; Burgh Police [Scotland] Act, Secs. 233, 237, 249, 303, 339, 362).

The powers of a local authority to construct sewers without their district are in some respects wider than in England, for there are no restrictive clauses like sections 32 to 34 of the English Act of 1875. Landward authorities are, however, in constructing drainage and other capital works subject to the control of the standing joint committee of the county council and the commissioners of supply, in so far as the consent of that body is required before they are undertaken. In a burgh, any ratepayer or other person aggrieved by the construction of works under the Burgh Police Act may lay an appeal before the sheriff.

For the protection of burgh sewers there is no general provision corresponding to sections 16 and 17 of the English Public Health Act of 1890, but there are provisions requiring owners or occupiers of distilleries, manufactories, or other works to take special measures to prevent deleterious matter from entering the sewers; and it is a penal offence to introduce into the cesspool or soil-pipe of any house or other place 'ashes or other matter calculated to choke the same.'

The Burgh Police Act contains a general prohibition, 'without prejudice to any existing right of property,' against permitting sewage or other offensive matter to run over the sea-shore or strand within or *ex adverso* of a burgh.

The expense of constructing a new sewer under the Burgh Police Act, whether in a private or a public street, is not thrown upon the frontage owners as such, but upon all owners within the burgh, or if the burgh is divided into separate drainage districts, upon all owners within the district.

II. SEWAGE DISPOSAL

Rivers Pollution Prevention Act, Sec. 21; Secretary for Scotland Act, 1885; Public Health [Scotland] Act, Secs. 16, 74; Local Government [Scotland] Act, 1889, Sec. 55.

The pollution of a stream by sewage is an offence as a nuisance under the common law of Scotland, and also in terms of the Rivers Pollution Prevention Act of 1876, which applies to Scotland, with the substitution of the Secretary for Scotland for the Local Government Board as central authority, and which is locally administered by the public health authorities. A county council may enforce this Act as if it were a sanitary authority within its meaning. Under the Public Health Act a sewer must be so constructed and cleansed as not to be a nuisance. There is no provision corresponding to section 17 of the English Act.

Local authorities are empowered by the Public Health Act to collect the sewage and refuse from sewers for sale or for any purpose whatever, but so as not to create a nuisance. Their powers for the utilisation of sewage are similar to the English powers, but any contract for more than five years requires the approval of the Board of Supervision. There are no provisions corresponding to sections 28, 29, and 30 of the English Act.

I. AND II. COST OF SANITARY WORKS

Landward public health rate (Public Health [Scotland] Act, Secs. 93, 94; Public Health [Scotland] Amendment Act, 1871, Sec. 1; Local Government [Scotland] Act, 1889, Secs. 17, 27).

Burghal public health rates (Public Health [Scotland] Act, Secs. 93, 94, 95; Public Health [Scotland] Amendment Act, 1871, Sec. 1. Burgh Police [Scotland] Act, Secs. 267, 347, 361–366).

County councils in landward districts and the local authorities in burghs are empowered to raise assessments for the purposes of the Public Health Acts. Where a charge is incurred for the benefit of the whole of a landward district, it is defrayed by a rate over the whole district levied by the county council in the same manner as the poor rate, *half upon owners and half upon occupiers*. When the charge is only for part of a landward district (a case which only occurs when a special district is formed for drainage or water supply) the rate is levied within that part in the same way. The provisions for rating in burghs are somewhat complicated, different modes being prescribed in the Public Health Act and in the Burgh Police Act. If in constructing a new sewer the local authority proceed (as it is thought they are now bound to do) under the Burgh Police Act, a special sewer rate (for construction) is leviable upon owners either throughout the burgh or within separate drainage districts, and a general sewer rate (for maintenance) is leviable upon owners throughout the burgh. Water rates in burghs are charged upon occupiers, but occupiers of shops, quarries, and manufactories, are charged upon only one-fourth of their rateable rental. The occupiers within a burgh boundary of canals, railways, underground gas and water pipes, salmon-fishings, woodland, arable, meadow, or pasture ground, or other ground used for nurseries, market-gardens, or for agricultural purposes, are charged upon only one-fourth of their rateable rental in the assessment of all rates levied by burgh commissioners under the Burgh Police Act. Other sanitary expenses are in burghs charged upon occupiers.

Except in burghs with a population of 50,000 or upwards, the

maximum rate leviable under the Public Health (Scotland) Acts, when the provisions as to water, or sewerage, or drainage, or hospitals, have been put in force, is two shillings and sixpence per pound of rateable value; when these provisions have not been put in force the maximum rate is sixpence. If, therefore, the rate is payable equally by owners and occupiers, no owner or occupier can as such respectively be called upon to pay more than one shilling and threepence per pound in the one case, or threepence per pound in the other. In burghs with a population above 50,000 the maximum rate under the Public Health Acts is threepence; but such burghs are generally regulated either by local Acts or by the Burgh Police Act, which provides for a general rate upon occupiers not exceeding two shillings in the pound when the provisions of the Act as to water supply have not been put in force, or four shillings when they have. Maximum public health rates.

Under the Public Health (Scotland) Acts, loans may be raised for the purposes of making, relaying, or constructing sewers, of constructing, purchasing, enlarging, or reconstructing water supply works, and of building, or otherwise providing, permanent hospitals. The period of repayment in burghs is not more than fifty years when the money is borrowed from the Public Works Loan Commissioners, and not more than thirty years when it is obtained otherwise. The consent of the Board of Supervision is required to a loan from the Loan Commissioners, and such loans are granted at $3\frac{1}{2}$ per cent. interest when the period of repayment does not exceed thirty-five years, $3\frac{3}{4}$ per cent. when it exceeds thirty-five but does not exceed forty years, and 4 per cent. when it exceeds forty years. In landward districts, the borrowing authority is the county council, not the local authority (district committee). All loans raised under the Local Government (Scotland) Act by a county council, including loans raised for a local authority in pursuance of the Public Health Acts, must be repaid within thirty years, whether obtained from the Loan Commissioners or not. Borrowing (Public Health [Scotland] Act, Secs. 86, 89; Public Health [Scotland] Amendment Act, 1871, Sec. 2; Public Health [Scotland] Amendment Act, 1875, Secs. 3, 4; Local Government [Scotland] Act, 1889, Sec. 67).

Burgh commissioners, in addition to their powers under the Public Health Acts, are entitled to borrow money for any of the sanitary purposes of the Burgh Police (Scotland) Act, 1892, and the Public Works Loan Commissioners may lend money to them for such purposes repayable within a period not exceeding thirty years. Secs. 374–379.

III. DRAINAGE OF HOUSES

When no drain exists a house owner may under the Public Health Act be compelled to make one, or to provide a cesspool. But it is a conspicuous defect in the Act that it makes no provision for insuring that new houses are properly drained and otherwise constructed in a sanitary manner. It is true that the definition of a nuisance includes 'any insufficiency of size, defect of structure, defect of ventilation, want of repair or proper drainage, or suitable water-closet, or privy accommodation, or cesspool, and any other matter or circumstance rendering any inhabited house, building, premises, or part thereof, injurious to the health of the inmates, or unfit for human habitation or use.' But the power to remove nuisances, however essential, is secondary to the power to prevent their creation, and a strong demand exists in landward districts for power to regulate the construction of dwelling-houses. In some counties useful work of Powers of local authority (Public Health [Scotland] Act, Secs. 16, 85).

supervision is being done by voluntary arrangement between the local authorities and the builders of new houses.

Additional powers of burghal authorities (Burgh Police [Scotland] Act, Secs. 238–245).

The Burgh Police Act contains elaborate provisions on the subject of the drainage and the other sanitary arrangements of houses in burghs. These do not materially differ from the English requirements and need not be enumerated; it may, however, be noted that the commissioners of every burgh have the right to establish a court, called the Dean of Guild court, with the function of superintending and regulating new works within the burgh, and that such courts have existed for centuries in the ancient burghs of Scotland, with an ample jurisdiction which has been freely exercised.

Dean of guild courts (Burgh Police [Scotland] Act, Secs. 201–209).

IV. WATER SUPPLY

Landward water supply and drainage districts (Public Health [Scotland] Act, Secs. 72, 76, 89, 90. Public Health [Scotland] Amendment Acts, 1882 and 1891. Local Government [Scotland] Act, 1889, Sec. 81. Secretary for Scotland Act, 1885).

In landward districts a public water supply may be provided for the whole district if the local authority consider it expedient, in which case the water rate falls upon the whole district; or for any special portion of the district if the local authority, on the requisition of ten inhabitants, and (if an appeal is taken) with the consent of the sheriff, so resolve, in which case the water rate falls upon the special district. (The same procedure applies to the formation of a landward special drainage district.) Special districts may be combined; their area may be altered, and in certain cases the special rate for water supply may be supplemented by a general rate over the whole district.

The only purposes to which the Scottish Public Health Act applies the compulsory clauses of the Lands Clauses Acts are the construction or use of sewers, and the provision of a water supply. The Secretary for Scotland is empowered to issue provisional orders (requiring confirmation by Parliament) to bring those clauses into action for the purposes mentioned. There is a strong demand for further compulsory powers. It may be noted that as regards the acquisition of a water supply it is provided that the words 'lands' and 'land' in the Lands Clauses Acts and in the Public Health (Scotland) Act shall include water and the right thereto. The difficulty, therefore, which exists in England in acquiring a compulsory water supply by means of provisional order is not felt in Scotland.

Burghal water supply (Public Health [Scotland] Act, Secs. 88, 89, 90; Burgh Police [Scotland] Act, Secs. 257–269).

Burghs may obtain a water supply alternatively under the Public Health (Scotland) Acts, or under the Burgh Police (Scotland) Act. Under the former Acts, the local authority of a burgh with a population of 10,000 or upwards, or having a local Act for police purposes, may provide a water supply either by contract with a water company, or, where there is no water company, directly. The local authority of any burgh with a population under 10,000, or of any burgh where the local police Act makes insufficient provision, may (like that of a landward district) apply the Lands Clauses Acts for the purpose of introducing a water supply, proceeding by provisional order where compulsory clauses are necessary. If a water company exists, they may contract with it or purchase its undertaking, but they are not permitted to enter into competition with it. The Burgh Police Act (which does not for this purpose apply to burghs supplied with water before 1895 under a local Act or Acts) supplements these provisions, and enables the commissioners of a burgh having a population below 5,000 to apply, for the purposes of a water supply, the compulsory clauses of the Lands Clauses Acts, with the consent of the sheriff and without a provisional

order; but 'land' (though it includes springs) is not defined as including water.

A local authority is required to compel an owner to obtain a water supply at or near his house, and, in a burgh, may compel him to take it into his house. The Public Health (Water) Act of 1878 does not extend to Scotland, and there is no power to prevent a house from being built without a proper water supply. Owing to the physical features and conformation of the country, however, water is plentiful in most parts of Scotland.

V. PRIVIES, WATER-CLOSETS, ETC.

Public Health [Scotland] Act, Secs. 16, 41, 44; Burgh Police [Scotland] Act, Secs. 246–256.

The Public Health (Scotland) Act provides that any local authority, landward or burghal, may provide and maintain public conveniences, and may require them to be provided in sufficient numbers in schoolhouses or factories. The Burgh Police Act furnishes a detailed code for burghs. Every water-closet, earth-closet, and privy is subject in regard to situation, dimensions, material, and construction to the approval of the burgh commissioners, whether built after the passing of the Act or (if they so decide) before. Ashpits are similarly under control; special provision is made for the flat system of occupation, which is very common in Scottish burghs; and cesspools are prohibited except where unavoidable. Bye-laws may be made for removing the contents of such receptacles within reasonable periods.

It appears, therefore, that the Scottish Acts, as applying to burghs, contain detailed regulations which in England are left to be prescribed by bye-laws. In landward districts the want of power to deal with privies and ashpits, both in existing and in new houses, is much felt, especially when the population is concentrated in villages.

VI. SCAVENGING AND CLEANSING

Landward scavenging.

There is no direct provision in the Public Health (Scotland) Acts for securing, either by bye-law or otherwise, the scavenging or cleansing of the whole or part of a landward district, and some facilities for the purpose are urgently required. It has, however, been held competent for a landward local authority to contribute towards the expense of a scavenger for a populous part of their district, the whole district paying the rate; and it would be possible for a county council to deal with the matter to some extent by means of bye-laws for the prevention of nuisances. The existing power to form special districts for water supply and drainage might with advantage be extended so as to cover scavenging.

Burgh scavenging and cleansing (Burgh Police [Scotland] Act, Secs. 107–127, 316).

The cleansing of burghs is fully regulated by the Burgh Police Act, the provisions of which are generally similar to those in force in England. The dust and other refuse of the burgh is vested in the commissioners, whose duty it is to cause all streets and footpaths to be properly swept and cleansed. For the deposit and treatment of dust, &c., the commissioners are empowered to acquire land, compulsorily, if need be, with the authority of the Board of Supervision and without a provisional order. They may cause carts to go round daily for the collection of refuse, and, if they exercise the power, may cause ashpits to be closed. They are bound to water the streets and to employ a sufficient number of scavengers. The occupiers are required to sweep and wash common stairs—a very necessary provision in Scottish towns,

where a large proportion of the inhabitants live in flats. It is the duty of the commissioners to keep footpaths clear of dirt *and snow* 'so far as is reasonably practicable.' The owners of common stairs and passages are to whitewash or paint them once a year if required by the sanitary inspector. The owners of dwelling-houses let for shorter periods than six months must whitewash them once a year if so required. A house may be compulsorily cleansed at the expense of the owner or occupier. Dwelling-houses, areas, private courts, stables, byres, &c., must be kept clean by the occupiers. Cattle- and horse-dung must be regularly removed at proper times. These provisions are enforceable under penalty, and bye-laws may be made for the purpose. The keeping of cattle, dogs, poultry, and swine within the burgh may also be regulated by bye-law.

VII. NUISANCES

Customary and statutory nuisance (Public Health [Scotland] Act, Secs. 16–30, 96–122; Local Government [Scotland] Act, 1889, Sec. 57; Burgh Police [Scotland] Act, Sec. 316).

The common law of Scotland regarding nuisance is narrower than that of England, but the pollution of water and of air, unusual noise or vibration, and unnatural heat fall within its scope (Broun). The statutory enumeration of nuisances which may be summarily dealt with, as contained in the Public Health (Scotland) Act, is of great importance, especially in landward districts, where, owing to the absence of specific powers of prevention, a local authority is obliged as a rule to rely upon its powers of prosecution with a view to the removal of nuisances. It includes:—

(*a*) Any insufficiency of size, defect of structure, defect of ventilation, want of repair or proper drainage, or suitable water-closet or privy accommodation or cesspool, and any other matter or circumstance rendering any inhabited house, building, premises, or part thereof injurious to the health of the inmates or unfit for human habitation or use. [The corresponding English provision merely mentions 'any premises in such a state as to be a nuisance or injurious to health.']

(*b*) Any pool, watercourse, ditch, gutter, drain, sewer, privy, urinal, cesspool, or ashpit so foul as to be injurious to health, or any well or other water supply used as a beverage or in the preparation of human food, the water of which is so tainted with impurities or otherwise unwholesome as to be injurious to the health of persons using it, or calculated to promote or aggravate epidemic disease. [In England the enumeration does not cover sewers, or 'wells or other water supply, &c.']

(*c*) Any stable, byre, pig-sty, or other building in which any animal or animals are kept in such a manner as to be injurious to health. [In England, 'Any animal so kept as to be a nuisance or injurious to health.']

(*d*) Any accumulation or deposit of manure or other offensive matter within fifty yards of any dwelling-house within the limits of any burgh, or wherever situated, if injurious to health, or any accumulation of police manure within a quarter of a mile of the municipal boundaries of any burgh (excepting the city of Glasgow), or any accumulation of deposits from ashpits or manure from town or village laid nearer than fifty yards to a public or parish road or dwelling-house. [In England, 'Any accumulation or deposit which is a nuisance or injurious to health.']

(*e*) Any work, manufactory, trade, or business injurious to the health of the neighbourhood or so conducted as to be offensive or in-

jurious to health, or any collection of bones or rags injurious to health. [No corresponding definition in England.]

(*f*) Any house or part of a house so overcrowded as to be dangerous or injurious to the health of the inmates. [The English definition adds 'whether or not members of the same family.']

(*g*) Any factory, workshop, or workplace *not under the operation of any general Act for the regulation of factories or bakehouses, and* not kept in a cleanly state, or not ventilated in such a manner as to render harmless, as far as practicable, any gases, vapours, dust, or other impurities generated in the course of the work carried on therein, *and injurious or dangerous to the health of persons employed therein*, or *any such factory, workshop, or workplace as is* so overcrowded while work is carried on therein as to be dangerous or injurious to the health of those employed therein. [The words in italics do not occur in the English definition, which is limited in its application to gases, &c., that 'are a nuisance or injurious to health.']

(*h*) This definition corresponds to the first portion of No. (7) of the English enumeration, but only applies within burghs.

(*i*) Any chimney (not being the chimney of a private dwelling-house) sending forth smoke so as to be injurious to health. [In England, 'sending forth black smoke in such quantity as to be a nuisance.']

(*j*) Any churchyard, cemetery, or place of sepulture so situated or so crowded with bodies or otherwise so conducted as to be offensive or injurious to health. [Not in the English list.]

Except in certain cases as regards (*h*), (*i*), and (*j*), the summary decision of a sheriff, magistrate, or justice upon the alleged existence of a nuisance is final. As regards (*e*) and (*g*) a medical certificate, or a requisition by ten inhabitants, is required. If the complaint appears justified, the decision must be for the removal or remedy or discontinuance or interdict of the nuisance. The sheriff, magistrate, or justice may appoint remedial works to be carried out under the direction and subject to the approval of any person whom he may appoint, or in case of non-compliance or absence may ordain the local authority to execute specified works and to recover expenses from the author of the nuisance or the owner of the premises. There are no saving clauses corresponding to those in the English Act.

A county council has power, subject to the approval of the Secretary for Scotland, to make bye-laws 'for prevention and suppression of nuisances not already punishable in a summary manner by virtue of any Act in force throughout the county'; and burgh commissioners may, subject to the approval of the sheriff or the Board of Supervision and of the Secretary for Scotland, make bye-laws 'for preventing nuisances and annoyances in any street or any other place within the burgh,' and also for various sanitary purposes specified in section 316 of the Burgh Police (Scotland) Act.

Mode of compelling local authority to perform its duty.

If a local authority refuse, either as regards nuisances, or otherwise, to enforce the provisions of the Public Health (Scotland) Act, any two householders, or the inspector of poor, or the local procurator fiscal (i.e. public prosecutor), or the Board of Supervision, may apply to the sheriff for a summary decision and decree. The sheriff, after inquiry, may require the removal or remedy of a nuisance or the performance of a duty incumbent on a local authority, and may enforce his decree at the expense of the local authority or others; but if

drainage works are necessary, may suspend consideration in order to enable them to be carried out. The Board have a further power to apply to the Court of Session, with the approval of the Lord Advocate, in cases when a local authority refuse or neglect to do what is required of them; and the Court has full jurisdiction to require such authority to perform their duty. In practice the Board do not interfere except in cases of considerable public importance; and their action has always been successful. They do not possess the power enjoyed by the Local Government Board in England to appoint a person to execute any work at the expense of a defaulting authority.

VIII. HOUSING OF THE POOR

Cellar dwellings (Public Health [Scotland] Act, Secs. 45–47).

The occupation of cellars or underground dwellings is regulated by the Public Health (Scotland) Act under similar conditions to those in force in England; but there is no prohibition of the occupation of such dwellings, provided the conditions be observed, even if built after the passing of the Act.

Common lodging-houses (Public Health [Scotland] Act, Secs. 59–70).

A common lodging-house is defined as 'a house or part thereof where lodgers are housed at an amount not exceeding fourpence per night for each person, whether the same be payable nightly or weekly, or at any period not longer than a fortnight, or where the house is licensed to lodge more than twelve persons.' With the approval of the Board, the amount may be diminished or raised, but not so as to exceed sixpence. Otherwise the Scottish provisions respecting common lodging-houses are similar to those in force in England.

Other lodging-houses (Public Health [Scotland] Act, Sec. 44).

As regards other lodging-houses, regulations may with consent of the Board be made by the local authorities *of burghs* with not less than 1,000 population, for purposes similar to those which may be regulated in England—not specifically including drainage, however, or the giving of notices or taking of precautions in case of infectious disease. The provisions of the Merchant Shipping (Fishing Boats) Act, 1883, respecting seamen's lodgings, apply to Scotland; and those of the Housing of the Working Classes Act, 1885, empowering every local authority to regulate lodging-houses by bye-law, appear intended to apply, but owing to imperfect drafting it is doubtful how far they could be enforced in Scotland.

Housing of the Working Classes Act, 1890.

The Housing of the Working Classes Act, 1890, applies to Scotland, but with certain modifications. The powers of an English district authority which refuses to proceed under the second part of the Act may be assumed by the county council. This provision does not extend to Scotland. Under Part III. of the Act, working class lodging-houses may in England be provided by a rural district authority with the consent of the county council. In Scotland, the consent of the Board of Supervision is substituted. In practice it has been found that the procedure provided by the Public Health (Scotland) Act, which classes an unhealthy dwelling as a nuisance, is more effective than the alternative method prescribed for closing such dwellings in the second part of the Housing of the Working Classes Act. The first part of the Act, or the corresponding portion of the Acts which it consolidated and repealed, has been utilised in Edinburgh, Aberdeen, Greenock, and Leith; but several burghs (including Edinburgh, Glasgow, Dundee, Paisley, and Perth) have also obtained private Improvement Acts. The operations of the City of Glasgow

Improvement Trust under their private Acts have often been described, and praised in and out of Parliament as a splendid example of municipal enterprise.

The provisions of the Canal Boats Acts do not extend to Scotland, and section 9 of the Housing of the Working Classes Act, 1885, relating to tents, vans, sheds, and similar structures, is of doubtful application. The provisions in English statutes dealing with hop-pickers' and fruit-pickers' lodgings do not apply.

IX. BUILDINGS

No landward supervision.

The landward local authorities in Scotland, as stated above, have no powers of supervision over the construction or sanitary arrangements of new dwellings, although they may deal with insanitary dwellings as nuisances under the Public Health (Scotland) Act, or under the Housing of the Working Classes Act. On the principle that prevention is better than cure, it is much to be desired that such powers should exist, as they do in England.

Burghal supervision (Burgh Police [Scotland] Act, Secs. 166–180, 201–209).

Ample powers are afforded to burgh commissioners by the Burgh Police (Scotland) Act, elaborate statutory provisions being made here, as elsewhere, regarding matters which in England are dealt with by bye-law. The Fourth Schedule to the Act contains rules for new buildings, providing (*inter alia*) for a damp course of durable material, sufficient ashpit and water-closet or privy accommodation, solid party-walls and gables, wall construction such as to prevent damp, good mortar, three coats of plaster in all apartments in a dwelling-house, ventilated, trapped, and tested plumber work, and paved courts and common passages. These rules may be altered by the commissioners with the approval of the sheriff. But other compulsory provisions are embodied in the Act itself. Petitions containing full particulars, with plans and sections, must be lodged with the commissioners when it is proposed to build a new house or alter an old one, and the commissioners may require alterations. All rooms in new or altered dwelling-houses must be sufficiently lighted and ventilated from the street, or from an open space equal to three-fourths of the area in which the house stands. Not more than twelve flat tenements may open from an inside stair, nor more than twenty-four from an outside stair. In new dwelling-houses, rooms on the ground floor must be 9½ feet in height, and on other floors 9 feet, except attics, which must be 8 feet high over one-third of their area, and nowhere less than 3 feet. Further provisions are made for adequate window space, for proper chimneys for carrying away steam from high-pressure engines, for prohibiting the erection of any building on ground impregnated with fæcal matter or with any animal or vegetable or any other offensive matter, and for preventing the occupation of new dwelling-houses until they are certified fit by the burgh surveyor. Public buildings must be ventilated to the satisfaction of the commissioners. Every new habitable room of less area than 100 feet, built without a fireplace, must have special means of ventilation. Every building and every common stair, whether old or new, must be provided with proper means of ventilation if the commissioners so order.

When there is in a burgh a Dean of Guild Court, it discharges the commissioners' functions relating to buildings; and in any burgh a Dean of Guild Court (which is practically a committee of the commissioners) may be established.

X. OFFENSIVE TRADES

Public Health [Scotland] Act, Sec. 30; Burgh Police [Scotland] Act, Sec. 316.

The classification of offensive trades is different in Scotland from the English classification, and includes 'the business of a blood-boiler, bone-boiler, tanner, slaughterer of cattle, horses, or animals of any description, soap-boiler, skinner, tallow-melter, tripe-boiler, or other business, trade, or manufacture injurious to health.' The Board of Supervision have power to determine whether a business, trade, or manufacture is injurious to health. No such business may be established or enlarged within 500 yards of any burgh *or village* without the consent of the local authority. Bye-laws may be made to regulate such newly-established businesses. Any business injurious to the health of the neighbourhood, or so conducted as to be *offensive* or injurious to health, is a statutory nuisance. In a burgh the commissioners have the further power of passing bye-laws 'for reducing or removing the noxious or injurious effects attending the business of a blood-boiler, bone-boiler, tanner, slaughterer of horses or animals of any description, soap-boiler, tallow-melter, tripe-boiler, or other noxious or offensive business, trade, or manufacture.' There are no provisions corresponding to sections 114 and 115 of the English Public Health Act.

XI. THE ALKALI, ETC. WORKS REGULATION ACTS

Act of 1881, Sec. 29; Secretary for Scotland Act, 1885.

These Acts apply to Scotland, with the substitution of the Secretary for Scotland for the Local Government Board as central authority. The Acts are locally administered by the public health authorities.

XII. THE FACTORY AND WORKSHOP ACTS

Act of 1878, Sec. 105; Act of 1883, Sec. 19; Act of 1891, Sec. 33.

These Acts also apply to Scotland, the central jurisdiction being vested in the Home Secretary.

XIII. BAKEHOUSES

The provisions of the Factory and Workshop Acts respecting bakehouses apply to Scotland.

XIV. SLAUGHTER-HOUSES

Public Health [Scotland] Act, Sec. 30; Burgh Police [Scotland] Act, Secs. 278–287.

Slaughter-houses are not specially dealt with in the Public Health (Scotland) Act, but the business of a 'slaughterer of cattle, horses, or animals of any description' is merged among other 'offensive trades,' and subject to the regulations which apply to such trades in burghs and in landward districts.

Burgh commissioners may provide slaughter-houses for slaughtering cattle within or without the burgh, and no slaughter-house may be used or erected in the burgh without their licence. If the commissioners provide public slaughter-houses, no others may be used: in this respect the Scottish statute is more stringent than the English.

XV. UNSOUND MEAT, ETC.

Public Health [Scotland] Act, Sec. 26; Burgh Police [Scotland] Act, Secs. 428–9.

The Scottish classification of unsound articles of food liable to seizure does not include corn, bread, flour, or milk; and there are no extending provisions such as exist for England in the Public Health Act of 1890. In burghs there is a power to seize and destroy diseased

cattle, whether offered for sale or not, and to prosecute the original sellers of diseased animals or meat intended for human food, whether within or without the burgh.

XVI. HORSEFLESH

The Sale of Horseflesh Regulation Act, 1889, applies to Scotland.

XVII. ADULTERATION

The Sale of Food and Drugs Acts and the Margarine Act apply to Scotland.

XVIII. DAIRIES, COWSHEDS, AND MILKSHOPS

The Dairies, Cowsheds, and Milkshops Order of 1885 applies to Scotland, the Board of Supervision having under the Contagious Diseases (Animals) Act, 1886, the powers exercised in England by the Local Government Board, but subject to the consent of the Secretary for Scotland as regards general or special orders. The Board issued in 1887 an amending order corresponding to the Local Government Board's order of November 1886.

XIX. BATHS AND WASHHOUSES

The Baths and Washhouses Acts do not apply to Scotland, and landward local authorities have no power to provide such accommodation for the public. In burghs, the commissioners may provide (subject to a ballot of the ratepayers if called for) 'public baths and washhouses, and public covered or open bathing-places, and public drying-grounds,' and have full powers to regulate them, subject only to the condition that there must be at least twice as many baths for the working classes as there are baths of higher class.

Burgh Police [Scotland] Act, Secs. 309–314.

XX. PARKS AND PLEASURE-GROUNDS

A local authority, whether landward or burghal, is empowered by the Public Health (Scotland) Act to provide a recreation-ground. But as no power of borrowing money [or of taking land compulsorily] is conferred, the Act is practically inoperative. A special Act, however—the Public Parks (Scotland) Act—was passed in 1878, which gives full powers to the local authorities of burghs to 'purchase or take on lease, lay out, plant, improve, and maintain lands for the purpose of being used as parks, public walks, or pleasure-grounds,' to borrow and rate for their acquisition and maintenance, and to regulate their use by bye-laws to be approved by the Secretary for Scotland. If land is not otherwise available it may be taken compulsorily under a provisional order of the Secretary for Scotland, subject to the confirmation of Parliament. This Act has been applied in several Scottish burghs. A further power of acquiring ground within or not more than two miles outside of a burgh for 'a pleasure-ground or place of public resort or recreation,' has been conferred on burgh commissioners by the Burgh Police (Scotland) Act of 1892; but this power can only be exercised by special resolution of the commissioners, subject to a poll of householders if demanded.

Public Health [Scotland] Act, Sec. 58; Public Parks [Scotland] Act, 1878; Secretary for Scotland Act, 1885; Burgh Police [Scotland] Act, Secs. 307, 308, 316.

The Open Spaces and Commons Acts do not apply to Scotland; but a burgh rate may be applied in maintaining or defending rights in commons and open spaces, and the commissioners may provide for their regulation and preservation by bye-law.

XXI. GYMNASIUMS

There is no power under the general Scottish statutes to provide or maintain public gymnasiums, and the Museums and Gymnasiums Act, 1891, does not apply to Scotland.

XXII. INFECTIOUS DISEASES AND HOSPITALS

The Infectious Diseases (Prevention) Act of 1890 does not apply to Scotland. The Public Health (Scotland) Act contains clauses corresponding generally to sections 120, 122, 123, 126, 127, and 128 of the English Act of 1875, but the Scottish provisions apply to any infectious disease, the qualifying word 'dangerous' not being inserted. The Burgh Police (Scotland) Act makes no further provision for the regulation of infectious diseases, but the larger Scottish burghs have private Acts containing clauses dealing effectively with the matter.

Hospitals (Public Health [Scotland] Act, Secs. 39, 40, 42; Public Health [Scotland] Amendment Act, 1871, Sec. 2; Public Health Amendment [Scotland] Act, 1890).

A section in the Public Health (Scotland) Act contains provisions for the erection and maintenance of hospitals by local authorities corresponding to those of section 131 of the English Act of 1875. In Scotland, however, the hospital must be built within the district of the local authority (except in the case of a burgh local authority, which by an Act of 1890 is empowered to provide it without the burgh); and the situation and construction of the hospital is in every case subject to the approval of the Board of Supervision. A local authority may borrow for the erection of a permanent hospital, but it has no power to acquire land compulsorily for this purpose. The Isolation Hospitals Act, 1893, does not apply to Scotland.

Compulsory removal (Public Health [Scotland] Act, Sec. 42).

A local authority in Scotland, as in England, possesses the power of applying to a magistrate for the compulsory removal to hospital of any person suffering from any dangerous, contagious, or infectious disorder. The Scottish clause is wider than the English, in so far as it extends to any person 'lodged in a room occupied by others besides those in attendance on such person'; and it includes a further power of directing the 'removal from the room occupied by such person of all others not in attendance on him, the local authority providing suitable accommodation for such other persons.' No power of recovering the costs of treatment of such persons is directly conferred.

Notification.

The Infectious Diseases (Notification) Act of 1889 applies to Scotland, and has been adopted by the great majority of local authorities; more than ninety-three per cent. of the population are subject to its provisions, or to similar provisions made by local Acts.

Epidemics (Secs. 31–38).

Part III. of the Public Health (Scotland) Act contains provisions for dealing with extraordinary epidemics. It comes into operation, on the issue of an order by the Secretary for Scotland, for a period prescribed in the order not exceeding six months. During that period the Board of Supervision are empowered to employ additional staff, and to issue rules and regulations binding on local authorities. The Public Health Act of 1889 does not extend to Scotland, but by an Order in Council, issued (under the Quarantine Act and section 56 of the Public Health (Scotland) Act) on September 9, 1893, regulations are prescribed for the detention of vessels suspected to be infected with cholera, for the fixing of places where such vessels shall be moored, for the examination of the crews and passengers by medical officers of health, and for the following up to their destination of persons arriving in such vessels, or of any passengers arriving in a filthy or otherwise unwholesome con-

dition. These provisions are permanent, and correspond generally to the regulations of the Local Government Board for England and Wales under the Public Health Act of 1889.

XXIII. MORTUARIES AND CEMETERIES

A local authority in Scotland may provide a mortuary, but the Board of Supervision have no power to require them to do so. A parochial board (the poor law authority of a parish) has a similar power under the Burial-Grounds (Scotland) Act of 1855, and this division of responsibility occasionally leads to confusion. A local authority has no power or duty to provide a burial-ground; but it may take proceedings in regard to 'any churchyard, cemetery, or other place of sepulture so situated or so crowded with bodies or otherwise so conducted as to be offensive or injurious to health,' as a statutory nuisance.

Public Health [Scotland] Act, Secs. 16 and 43; Burial Grounds [Scotland] Act, 1855, Sec. 20.

XXIV. DISUSED BURIAL-GROUNDS

There are no Scottish provisions corresponding to those of the English statutes dealing with this subject.

XXV. MEDICAL OFFICERS AND SANITARY INSPECTORS

The provisions of the Public Health (Scotland) Act regulating the appointment, tenure, and duties of medical officers and sanitary inspectors have been supplemented by those of the Local Government (Scotland) Act of 1889 and the Burgh Police (Scotland) Act of 1892. The council of every county are required to 'appoint and pay a medical officer or medical officers and a sanitary inspector or sanitary inspectors, who shall not hold any other appointment or engage in private practice or employment without express written consent of the council.' These officers may be reappointed by the district committees (landward local authorities) as district officers, every district committee being empowered to appoint a medical officer or officers and a sanitary inspector or inspectors for their district, or for any part of it or any parish within it. When the Board of Supervision think it necessary, they may compel a district committee as local authority to appoint a medical officer or sanitary inspector; and under their regulations sanitary inspectors must be appointed wherever there is a town or village population exceeding 2,000. A medical officer must be a registered medical practitioner. No person may, since the beginning of 1893, be appointed medical officer under the Public Health (Scotland) Acts for a county or district or parish with a population of 30,000 or upwards, unless he is the holder of a diploma in sanitary science, public health, or State medicine under the Medical Act, 1886; and no person may, except with the express consent of the Board of Supervision, be appointed sanitary inspector of a county unless he has been during the three consecutive years preceding his appointment the sanitary inspector of a local authority under the Public Health (Scotland) Acts.

Appointment and qualifications in landward areas (Public Health [Scotland] Act, Sec. 8; Local Government [Scotland] Act, 1889, Secs. 52–54).

The commissioners of every burgh must appoint a sanitary inspector and a medical officer of health. The medical officer must be registered, and if appointed after May 15, 1894, must also have the further qualification required in counties since the beginning of 1893.

In burghs (Public Health [Scotland] Act, Sec. 8; Burgh Police [Scotland] Act, Secs. 73–77).

No medical officer or sanitary inspector, whether for a county, landward district, or burgh, can be removed from office without the sanction of the Board of Supervision.

Powers of board (Local Government [Scotland] Act, 1889, Secs. 53-54; Burgh Police [Scotland] Act, Sec. 77).

Local authorities may (and in a burgh must) make bye-laws regulating the duties of their medical officers and sanitary inspectors; and such bye-laws must be approved by the Board of Supervision. The Board may make regulations as to reports to be made to them by medical officers and sanitary inspectors; and copies of reports by medical officers and sanitary inspectors for landward districts must be sent to the county council.

It will be observed that medical officers and sanitary inspectors have a statutory appeal to the Board of Supervision against removal from office, and that the designation 'inspector of nuisances' does not occur in the Scottish statutes. Among other differences, perhaps the most noteworthy is that no provision exists in Scotland for a medical officer discharging any of the statutory or other duties of a sanitary inspector. Neither in the Acts, nor in the model regulations issued by the Board of Supervision, are the respective positions and mutual relations of medical officers and sanitary inspectors defined.

Grant in aid of salaries (Local Taxation, [Customs and Excise] Act, 1890, Sec. 2).

An annual grant of 15,000*l.* is distributed (out of the Scottish Local Taxation Account) by the Secretary for Scotland, on the certificate of the Board of Supervision, as a contribution towards the salaries and travelling expenses of medical officers and sanitary inspectors. In order to share in the grant a local authority must obtain the approval of the Board of Supervision to the qualifications and the amount of the remuneration of its officers. It has been the policy of the Board to recommend the appointment of county medical officers having no private practice, and the reappointment of these officers as the chief medical officers of each landward district. A similar view has been taken in regard to the sanitary officers, and the Board have refused to approve schemes under which the chief constable of a county is appointed chief sanitary inspector. In most of the Scottish counties, and in the more important burghs, public health specialists are now at the head both of the medical and of the sanitary staff, and their annual reports present a most valuable and interesting record of the health, and in many cases, incidentally, of the social state and progress of their districts.

The model bye-laws recommended by the Board of Supervision for regulating the duties of medical officers and sanitary inspectors do not (except as already noticed) materially differ from those of the Local Government Board.

XXVI. POWERS IN RELATION TO PROMOTING OR OPPOSING BILLS

Local Government [Scotland] Act, 1889, Sec. 56.

The Acts on this subject do not apply to Scottish burghs. A county council has no statutory power to promote bills, but may oppose them with the consent of the Secretary for Scotland. But various county councils have promoted bills at their own risk; and in 1891 a private bill was passed giving power to the District Committee of the Middle Ward of Lanarkshire to carry out a scheme for supplying their district (a very large and populous one) with water, on a scale probably without parallel in the United Kingdom.

PART III

COMBINATIONS OF SANITARY AUTHORITIES

The purposes for which local public health authorities in Scotland are empowered to combine are not so numerous as in England, being limited to hospitals, sewerage or drainage works, and water supply. There is no power to constitute a united district by provisional order.

Public Health [Scotland] Act, Secs. 39, 87, 92.

PART IV

PORT SANITARY AUTHORITIES

The English provisions regarding port sanitary authorities do not extend to Scotland, and there is no general power to constitute such authorities, although some need exists for them in the various estuaries of Scotland. By a private Act of 1893, however, one of the most urgent cases—that of the Clyde—was met by provisions under which the local authority of Greenock discharges sanitary functions on behalf of Glasgow and other ports higher up the river than Greenock, subject to an equitable allocation of expenses.

Greenock Corporation Act, 1893, Sec. 39.

PART V

COUNTY COUNCILS

Local Government [Scotland] Act, 1889, Secs. 11, 17, 18, 25, 52, 53, 55, 56, 57, 67, 78.

THE public health functions of Scottish county councils are very similar to those of the corresponding English bodies. They appoint county medical officers and county sanitary inspectors and receive their reports; they may hear appeals in sanitary matters (except nuisances) from district committees, make statutory representations to the Board of Supervision, enforce the Rivers Pollution Prevention Act, and oppose Bills in Parliament. They created, and have power to alter, the landward sanitary areas. They own all the drainage and water works and the hospitals provided by landward authorities, regulate the proceedings of the district committees, levy the public health rate, and raise loans for sanitary purposes. They are also empowered to make bye-laws, subject to the confirmation of the Secretary for Scotland, for the prevention of vagrancy, and for prevention and suppression of nuisances not already punishable in summary manner.

The Local Government (Scotland) Bill, 1894, introduced by the Government and under discussion while this work is passing through the press, proposes to give power to landward local authorities (district committees) to constitute and rate special areas for lighting, scavenging, and the provision of public baths, wash-houses and drying grounds.

PART VI

PARISH COUNCILS

A MORE or less representative body called the 'parochial board' has existed for the administration of the poor law in every Scottish parish since the passing of the Poor Law (Scotland) Amendment Act in 1845. From 1867 to 1890 these boards administered the Scottish Public Health Acts in landward districts. They still administer the Burial Grounds (Scotland) Act of 1855, and the Vaccination (Scotland) Act.

The Local Government (Scotland) Bill of 1894 proposes to abolish the parochial boards, and, under the name of the 'parish council,' to constitute in every parish a directly representative body, with various additional functions, which do not, however, include any important duties of public health administration.

PART VII

BURIAL ACTS

Burial Grounds [Scotland] Act, 1855; Public Health [Scotland] Act, Sec. 16; Secretary for Scotland Act, 1885.

The Burial Acts do not apply to Scotland. An insanitary burial-ground may be closed either as a nuisance under the Public Health (Scotland) Act, or by the somewhat lengthy procedure prescribed in the Burial-Grounds (Scotland) Act of 1855. Two members of the parochial board, or any ten persons paying poor rate, or any two householders residing within one hundred yards of a burial-ground, may petition the sheriff, who, if he finds that the burial-ground is dangerous to health or offensive or contrary to decency, transmits his finding to the Secretary for Scotland. An Order in Council closing the burial-ground in whole or part may then be passed on the Secretary for Scotland's representation—provision being made for due advertisement of the proposal. Any parochial board of a landward parish or town council of a burgh may, upon requisition, and must, if the parochial burial-ground has been closed by Order in Council, provide a new burial-ground within or without the parish, and may with the approval of the sheriff take land compulsorily for this purpose. Parochial boards may join in providing a burial-ground and may manage it as one joint board. The Secretary for Scotland may make regulations in relation to burial-grounds so provided, 'for the protection of the public health and the maintenance of public decency.' But he has no power to regulate cemeteries provided by private enterprise. Money may be borrowed, and a rate levied, for the purposes of the Act.

PART VIII

VACCINATION

Vaccination [Scotland] Act, 1863; Public Health [Scotland] Act, Sec. 57; Secretary for Scotland Act, 1885.

THE vaccination law of Scotland is contained in a single statute, the Vaccination (Scotland) Act of 1863. The policy and most of the provisions of the Act are similar to those of the English statutes, but there are some variations. The Act is administered through the Board of Supervision and the Registrar-General for Scotland as central authorities, and parochial boards as local authorities. The parochial board must appoint a medical practitioner as vaccinator, report his appointment to the Board of Supervision, and comply with the Board's regulations. The statutory period after birth within which a child must be vaccinated is *six* months—not three months as in England—but 'in insular, highland, and other districts, or portions of such districts,' the Board of Supervision may, with the consent of the Lord Advocate, modify the provisions of the Act as regards this period. (The Board have extended the period in several parishes to nine and twelve months.) The district registrars receive certificates of vaccination, and once in every six months transmit to the parochial boards the names of parents or other persons having the care of children who have failed to vaccinate them. The parochial board then issues an order to vaccinate, and, failing compliance, the offender is liable to a penalty not exceeding twenty shillings, or ten days' imprisonment. The same penalty is provided for failure to transmit a certificate of vaccination to the registrar within the prescribed period; and it has been judicially decided that persons refusing to have their children vaccinated may be prosecuted so often and so long as their names appear in the half-yearly lists of defaulters. It is the duty of the Board of Supervision to require the performance by a parochial board of its duties under the Act, and in case of failure the Board of Supervision may perform these duties. But there is no general feeling in any part of Scotland against the Vaccination Act, and only twenty-nine penalties were enforced under it in the whole country in the year 1892–93.

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